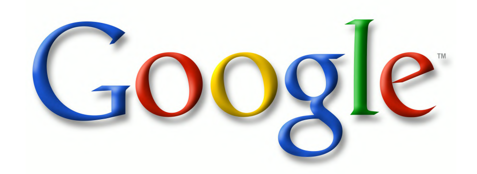
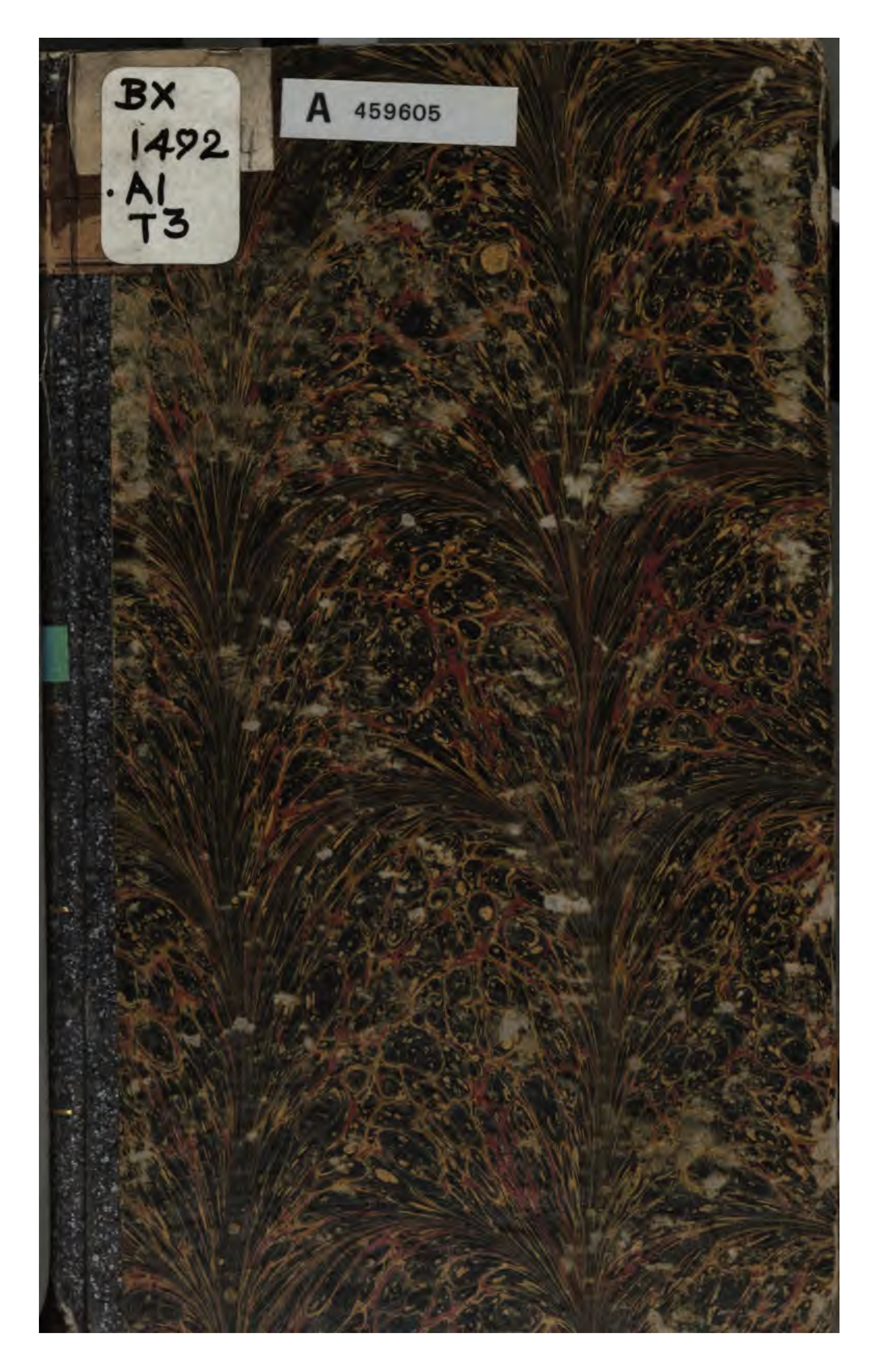
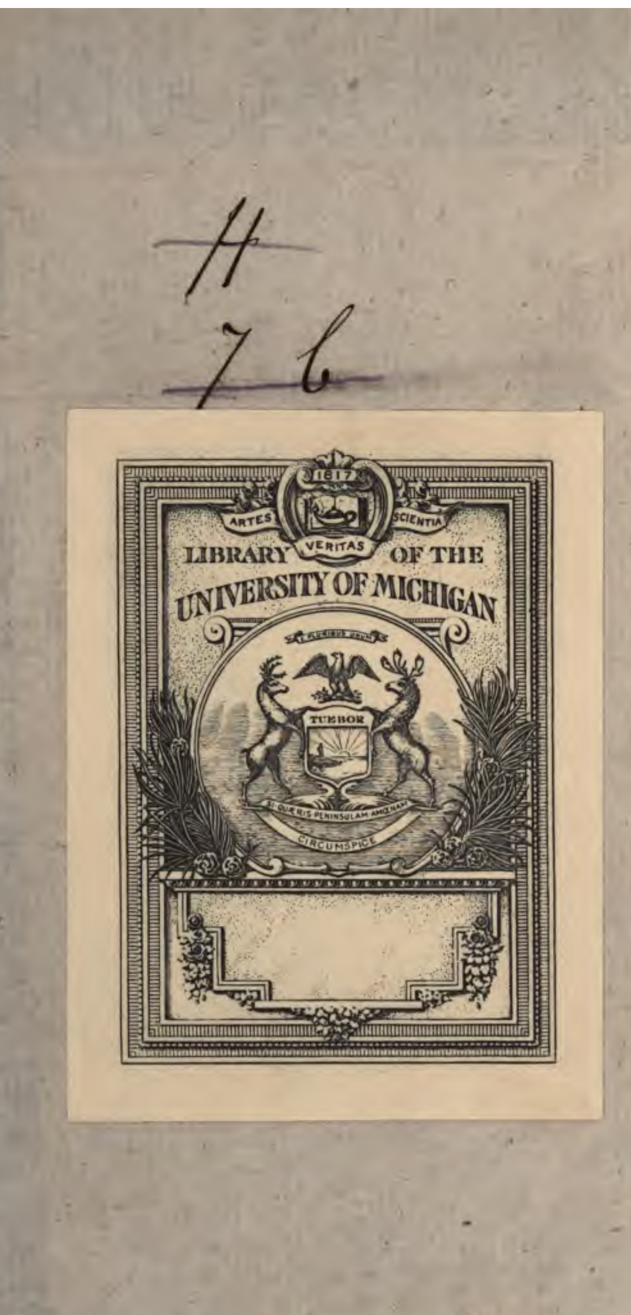



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Sammlung

einiger wichtigen

offiziellen Aktenstücke

zur

Geschichte der Emancipation der Katholiken in England.

Herausgegeben und bevorwortet

von

Dr. Augustin Theiner.

Mainz,

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1835.

Vorwort.

Außer dem großen Drama der französischen Revolution hat wohl kein anderes Ereigniß so sehr die Aufmerksamkeit der Mitwelt auf sich gezogen, als die Emancipation der Katholiken in England. Ohne näher in die Darstellung der einzelnen Begebenheiten einzugehen, wozu vielleicht die Zeit noch nicht gekommen sein dürfte, da die Leidenschaften der Partheien noch zu wach sind, und die großen Folgen dieser Erscheinung noch nicht übersehen, vielweniger ermessen werden können, wollen wir nur einen einzigen Moment hervorheben und zeigen, wie man die Emancipation eingeleitet hat.

Es ist bekannt, daß Pitt, jener große englische Staatsmann, dem der Ruhm gebührt, die französische Revolution gebrochen zu haben, im Jahre 1788 die drei berühmten Fragen an sämmtliche theologische Fakultäten der Akademieen von Löwen, Douay, Paris, Alkala, Valladolid und Salamanca erließ. Die Fragen waren:

1) Hat der Papst oder die Cardinäle oder irgend eine Corporation oder irgend eine Privatperson der katholischen Kirche irgend eine Civilautorität, Gewalt, Gerichtsbarkeit oder irgend einen Vorzug im Königreiche von England?

2) Kann der Papst oder die Cardinäle oder irgend eine Corporation oder irgend eine Privatperson der katholischen Kirche die Unterthanen Seiner Majestät von ihrem Eide der Treue und Unterwürfigkeit losbinden oder befreien, unter was für immer einem Vorwande?

3) Gibt es in den Lehren der katholischen Kirche einen Grundsatz, welcher die Katholiken berechtigt, Ketzern oder andern Leuten, welche von ihnen in religiösen Meinungen verschieden sind, in was immer für Unterhandlungen, öffentlichen oder Privatgeschäften, keinen Glauben zu halten*)?

*) Diese Fragen von Pitt sammt den erhaltenen Antworten der Akademieen befinden sich in Cuthell's Edition of the Debate upon

Wir wissen, wie diese Fragen, welche an und für sich wegen ihrer Absurdität keine Berücksichtigung verdienten, beantwortet wurden. Welcher Hohn wurde bei dieser Gelegenheit von den erwähnten theologischen Fakultäten über die katholische Kirche ausgegossen! Doch man muß sich dabei erinnern, daß diese Fakultäten zugleich eine Schande der Wissenschaft und des Jahrhunderts waren, da sie ganz dem gottlosen Zeitgeiste desselben huldigten und demnach freudig die Gelegenheit begrüßten, ihm ex cathedra Weihrauch zu streuen.

Man kann sich nicht genug wundern, daß ein so hellsehender Staatsmann, wie Pitt, solche Fragen an die katholische Kirche von Europa in der Angelegenheit der katholischen Emancipation richten konnte, da die gesammte irländische Nation auf einer allgemeinen Versammlung in ihrer berühmten Deklaration vom Jahre 1757, unter dem Vorsitze des Bischofs Dr. O'Keefe, dieselben so genügend beantwortet hatte **).

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the Catholic Petition, 1805. Im Auszuge: Substance of the Speech of Sir John Cox Hippisley, Bart. on seconding the motion of the Right Honourable Henry Grattan to refer the petition of the Roman Catholics of Ireland to a committee of the House of Commons, on Friday, the 18. of May, 1810. London 1810. Append. N. 7. p. 76—87.

**) Whereas certains opinions and principles, inimical to good order and government, have been attributed to the catholics, the existence of which we utterly deny; and whereas it is at this time peculiarly necessary to remove such imputations, and to give the most full and ample satisfaction to our Protestant brethren, that we hold no principle whatsoever, incompatible wich our duty as men or as subjects, or repugnant to liberty, whether political, civil, or religious:

Now we, the Catholics of Ireland, for the removal of all such imputations, and in deference to the opinions of many respectable bodies of mean, and individuals, among our Protestant brethren, do hereby, in the face of our country, of all Europe, and before God, make this our deliberate and solemn declaration:

Haben nicht ferner alle katholischen Bischöfe Irlands den Inhalt derselben Fragen in ihrem Amtseide, welchen sie zufolge

1st. We abjure, disavow, and condemn the opinion that princes excommunicated by the Pope and council, or by any ecclesiastical authority whatsoever, may therefore be deposed or murdered by their subjects, or any other persons. We hold such doctrine in detestation, as wicked and impious; and we declare, that we do not believe that either the Pope, with or without a general council, or any prelate or priest, or any ecclesiastical power whatsoever, can absolve the subjects of this kingdom, or any of them, from their allegiance to His Majesty King George the Third, who is, by authority of Parliament, the lawful King of thes realm.

2d. We abjure, condemn, and detest, as unchristian and impious, the principle, that it is lawful to murder, destroy, or anyways injure, any person whatsoever, for or under the pretence of being heretics; and we declare solemnly, before God, that we believe that no act, in itself unjust, immoral, or wicked, can ever be justified or excused by or under pretence or colour that is was done either for the good of the church, or in obedience to any ecclesiastical power whatsoever.

3d. We further declare, that we hold it as an unchristian and impious principle, that no faith is to be kept with heretics: this doctrine we detest and reprobate, not only as contrary to our religion, but as destructive of morality, of society, and even of common honosty; and it is our firm belief, that an oath mode to any person not of the Catholic religion, is equally binding as if it were made to any Catholic whatsoever.

4th. We have been charged with holding, as an article of our belief, that the Pope, with or without the authority of general council, or that certain ecclesiastical powers can acquit and absolve us before God from our oath of allegiance, or even from the just oathes and contracts entered into beetwen man and man:

Now we do utterly renounce, abjure, and deny, that we hold or maintain any such belief, as being contrary to the peace and happiness of society, inconsistent with morality, and above all repugnant to the true spirit of the Catholic religion.

5th. We do further declare, that we do not believe that the Pope of Rome, or any other prince, prelate, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or preeminence, directly or indirectly, within this realm.

der Akte des dreizehnten und vierzehnten Regierungsjahres König Georgs III. im Jahre 1773 leisten mußten, auf eine

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6th. After what we have renounced, it is immaterial, in a political light, what may be our opinion or faith in other points respecting the Pope; however for greater satisfaction, we declare that it is not an article of the Catholic faith, neither are we thereby required to believe or profess, that the Pope is infallible, or that we are bound to obey any order in its own nature immoral, though the Pope or any other ecclesiastical power should issue or direct such order, but on the contrary we hold, that it would be sinful in us to pay any respect or obedience thereto.

7th. We further declare, that we do not believe that any sin whatsoever committed by us, can be forgiven at the mere will of any Pope, or of any priest, or of any person or persons whatsoever, but that sincere sorrow for past sins, a firm and sincere resolution, as far as may be in our power, to restore our neighbours' property or character, if we have trespassed on, or unjustly injured either, a sincere resolution to avoid future guilt, and to atone to God, are previous and indis pensible requisites to establish a well-founded expectation of forgiveness; and that any person who receives absolution without these previous requisites, so far from obtaining thereby any remission of his sins, incurs the additional guilt of violating the sacrament.

8th. We do hereby solemnly disclaim, and for ever renounce all interest in, and title to all forfeited lands resulting from any rights, or supposed rights of our ancestors, or any claim title, or interest, therein; nor do we admit any title as a foundation of right, which is not established and acknowledged by the laws of the realm as they now stand; we desire further, that whenever the patriotism, liberty, and justice of our countrymen shall restore to us a participation in the elective franchise, no Catholic shall be permitted to vote at any election for membres to serve in Parliament, until he shall previously take an oath to defend, to the utmost of his power, the arrangement of property in this country, as established, by the different acts of attainder and settlement.

9th. It as been objected to us, that we wish to subvert the present church establishment, for the propose of substituting a Catholic establishment in its stead: now we do hereby disclaim, disa-

genügende Weise verneint und das Unstatthafte derselben dargethan*)? Dieser Eid wurde zwanzig Jahre später durch einen

vow, and solemnly abjure any such intention; and further, if we shal be admitted into any share of the constitution, by our being restored to the right of elective franchise, we are ready, in the most solemn manner, to declare that we will not exercise that privilege to disturb and weaken the Protestant religion, or Protestant government in this country. Vergleiche: The evidence taken before the select committees of the houses of Lords and commons, appointed in the sessions of 1824 and 1825 to inquire into the state of Ireland. London 1825 in, 8. p. 484—486.

*) J, A. B. do take Almighty God, and his only Son Jesus Christ, my Redeemer, to witness, That J will be faithful, and bear true allegiance to our most gracious Sovereign Lord King Georg the Third, and him will defend, to the utmost of my power, from all conspiracies and attempts whatever, that shall be made a gainst his person, crown, and dignity; and J will do my utmost endeavour, to disclose and make known to His Majesty, and his heirs, all treasons and traitorous conspiracies which may be formed against him or them. And J do faithfully promisse to maintain, support, and defend, to the utmost of my power the succession of the Crown in His Majesty's family, against any person or persons whatsoever, hereby utterly renouncing and abjuring any obedience or allegiance unto the person taking upon himself the style and title of Prince of Wales, in the lifetime of his father, and who since his death, is said to have assumed the style and title of King of Great Britain and Ireland, by the name of Charles the Third; and to any other person, claiming or pretending a right to the crown of these realms; and J do swear, that J do reject und detest, as unchristian and impious, to believe that it is lawful so murder or destroy any person or persons whatsoever, for or under pretence of their being heretics; and also, that unchristian and impious principle, that no faith is to be kept with haeretics. J further declare, that it is no article of my faith, and that J do renounce, reject and abjure the opinion, that prinees excommunicated by the Pope and council or by any authority of the See of Rome, or by any authority whatsoever may be deposed any murdered by their subjects, or by any person whatsoever; and J do promisse, that J will not hold,

Regierungsakt desselben Königs vom Jahre 1793 nochmals mit wenigen Veränderungen wiederholt, wobei man die von den Akademieen beantworteten Fragen berücksichtigt zu haben scheint*).

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maintain or abet any such opinion, or any other opinion contrary to what is expressed in His declaration; and J do declare, that J do not believe that the Pope of Rome, or any other foreign prince, prelate, state or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority or preeminence, directly or indirectly, within this realm; and J do solemnly, in the presence of Good, and his only Son Jesus Christ my Redeemer, profess, testify and declare, that J do make this declaration, and every part thereof, in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatever, and without any dispensation already granted by the Pope, or any authority of the See of Rome, or any person whatever, and without thinking that J am, or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the Pope, or an yother persons or authority whatsoever shall dispense with, or annul the same, or declare that it was null and void from the beginning. So help my God.

J, A. B. do hereby declare, That J do profess the Roman, Catholic religion. Jn the evidence, pag. 482 etc., ff.

*) «I, A. B. do swear, That I do abjure, condemn and detest, as unchristian, and impious, the principle, that it is lawful to murder, destroy, or anyways injure, any person whatsover, for or under the pretence of being a heretic; and I do declare solemnly, before God, that I believe that no act, in itself unjust, immoral, or wicked, can ever be justified or excused by or under pretence or colour, that it was done either for the good of the church, or in obedience to any ecclesiastical power whatsoever. I also declare, that it is not an article of the Catholic faith, neither am I thereby required to believe or profess, that the Popė is infalible; or that I am bound to obey any order in its own nature immoral, though the Pope, or any ecclesiastical power, should issue or direct such order; but, on the contrary, I hold, that it would be sinful in me to pay any respect or obedience thereto. I further declare, that I do not believe that any sin whatsoever committed by

Doch das böse Gewissen des Protestantismus kann nie ruhen, wenn es sich darum handelt, dem Katholizismus seine geraubten Rechte zurückzuerstatten. Wenig zufrieden gestellt durch die Niederlage, welche er bei der eben erwähnten Gelegenheit erlitten, da er sich schmeichelte, die gestellten Fragen nach seinem Geschmacke und Vorurtheile beantwortet zu erhalten, sann er auf andere Mittel, die Emancipation des Katholizismus zu hemmen.

John Cox Hippisley, ehemaliger englischer Agent am römischen Hofe, berühmt durch die Rolle, die er seit Pitt's Ministerium in der Angelegenheit der Emancipation spielte, ein gewandter, vielerfahrener und schlauer Geschäftsmann, war so glücklich, diese Mittel ausfindig zu machen. Ziemlich unterrichtet über die Stellung und Lage der katholischen Kirche in den verschiedenen, namentlich den katholischen Staaten, machte er den Vorschlag, authentische Erkundigungen hierüber einziehen und alle hierauf bezüglichen Dokumente sammeln zu lassen. Lord Castlereagh, damals Minister der auswärtigen Angele-

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me, can be forgiven at the mere will of any Pope, or of any priest, or of any persons whatsoever; but that sincere sorrow for past sins, a firm and sincere resolution to avoid future guilt, and to atone to God, are previous and indispensable requisites to etablish a well-founded expectation of forgiveness; and that any person who receives absolution, without these previous requisites, so far from obtaining thereby any remission of his sins, incurs the additional guilt of violating, a sacrament: and I do swear, that I will defend, to the utmost of my power, the settlement and arrangement of property in this country, as established by the laws now in being. I do hereby disclaim, disavow, and solemnly abjure, any intention to subvert the present church establishment, for the purpose of substituting a Catholic establishment in its stead: and I do solemnly swear, that I will not exercise any privilege to which I am or may become entitled, to disturb and weaken the Protestant religion, and Protestant government, in this kingdom. So help my God.» A Copy of the Oath required by the Act of the 33d George 3d, chapter 21. In Evidence pag. 483 ff.

genheiten, erließ nun unter dem 12. August 1812 an alle Gesandten, Ministerresidenten, Geschäftsträger und Agenten Englands bei den verschiedenen katholischen wie akatholischen Höfen eine offizielle Note, in welcher er sie amtlich beauftragte, die genauesten Erkundigungen über die Rechte, Privilegien, Freiheiten und Beschränkungen der katholischen Kirche in den respektiven Ländern einzuziehen und solche alsdann nach London auf das Bureau des Ministeriums der auswärtigen Angelegenheiten zu befördern. Lord Bathurst, Castlereagh's Nachfolger, erließ unter dem 15. September 1815 einen gleichen Ministerialbefehl an sämmtliche Geschäftsträger Englands bei den verschiedenen Höfen, und beauftragte sie von neuem mit dieser Sendung.

Diese wiederholten Aufträge verfehlten ihre Wirkung nicht. Die Gesandten, Ministerresidenten, Geschäftsträger und Agenten Englands schickten ihre Bemerkungen und Berichte über die Lage, die Rechte, Privilegien und Beschränkungen der katholischen Kirche in den respektiven Staaten ein. Sie fielen bald gut, bald schlecht aus, je nachdem diese Herren gegen die katholische Kirche gesinnt und eingenommen waren. Den Berichten geht jedesmal eine amtliche Depesche voraus, welche gewöhnlich den Geist des Berichterstatters charakterisirt. Aus ihr kann man hie und da ersehen, welche Mittel die Diplomaten anwandten, um zum Zwecke zu kommen, und welche offiziellen Quellen ihnen zu Gebote standen. Das schöne Gold der Souveraindors und Guineen scheint hierbei auch das Seinige gethan zu haben. Denn zur Ehre der katholischen Mächte sind wir geneigt anzunehmen, und sind auch wirklich hievon überzeugt, daß so manche Berichte, welche von den Gesandten für offizielle Ministerialberichte katholischer Höfe, wie jener von Wien, Florenz, Turin, Neapel u. s. w., ausgegeben werden, obgleich sie nur den Geist des kirchlichen Jakobinismus athmen, nichts anders sind, als Privatberichte feiler und irreligiöser Ministerialsekretäre, welche für englisches Gold den Gesandten ihr Gewissen, ihre Lügen und Verläumdungen gegen die katholische Kirche verkauften. Die Gesandten bedienten sich dieses kleinen Stratagems, um sich bei ihrem Hofe

ein Ansehen zu verschaffen. Es wäre auch in der That eine schwere Zumuthung gewesen, Weltleute auf einmal wie durch einen Zauberschlag in gelehrte, und was mehr sagen will, gewissenhafte Kanonisten umzuschaffen.

Als die Berichte sämmtlicher Geschäftsträger angelangt waren, wurden sie auf dem Bureau des Hauses der Gemeinen zur nähern Prüfung niedergelegt, und nebst den beigefügten Dokumenten durch einen Beschluß desselben vom 25. Juni 1816 sämmtlich dem Drucke übergeben*). Der Druck wurde als Staatssache betrieben, und man veranstaltete demnach nur so viele Exemplare, als die beiden Häuser Mitglieder zählten. Jedem Mitgliede wurde ein Exemplar amtlich eingehändigt. Der letzte Umstand macht dieses Werk zu einer großen Seltenheit. Nur äußerst wenige Exemplare befinden sich in den Händen von Privaten, und zwar nur in England. Wir waren so glücklich, ein solches durch die große Güte von Monsignore Wiseman, Rector des englischen Collegiums zu Rom und Professor der orientalischen Sprachen und Bibelexegese, zu erhalten.

Unseres Wissens ist vorliegendes Werk unserer geschichtlichen und theologischen Literatur, für welche es doch in so vieler Beziehung von großer Wichtigkeit ist, gänzlich entgangen. Die Mitglieder der Frankfurter Commission zur Organisirung der oberrheinischen Kirchenprovinz, denen, so viel wir wissen, die Sammlung nicht unbekannt war, fanden es nicht gerathen, etwas davon der Oeffentlichkeit zu übergeben. Für England hat der berühmte Theolog und Geschichtsforscher Dr. Johann Lingard sich das Verdienst der näheren Bekanntmachung und

*) Dieses berühmte Werk führt den Titel: Report from the select committee appointed to report the nature and substance of the Laws and Ordinances existing in Foreign States, respecting the Regulation of their Roman Catholic Subjects, in Ecclesiastical matters, and their intercourse with the See of Rome, or any other Foreign Ecclesiastical Jurisdiction. With an appendise. Ordered, by The House of Commons, to be Printed, 25 June 1816. I vol. In fol. von 544 SS.

gerechten Würdigung derselben erworben*). Wir übernehmen diese Aufgabe für Teutschland, und schmeicheln uns, hierdurch der Wahrheit und der Geschichte keinen geringen Dienst zu leisten. Gehen wir nun sofort zur nähern Beschreibung und Beurtheilung dieses Werkes über.

Die Dokumente sind nach den verschiedenen Ländern abgetheilt und zerfallen in ein und zwanzig Rubriken, und zwar in Dokumente: 1) über Oestreich; 2) über den Congreß von Ems; 3) über die italienischen Staaten Oestreichs; 4) über den Freistaat Venedig vor seinem Anheimfall an Oestreich; 5) über Toskana; 6) über das Königreich beider Sicilien; 7) über die Staaten des Königs von Sardinien, Piemont und Savoyen; 8) über Frankreich; 9) Spanien; 10) Portugal und Brasilien; 11) über die Schweiz; 12) über Rußland; 13) Dänemark; 14) Schweden; 15) Preußen; 16) die Niederlande; 17) über Hamburg; 18) Sachsen; 19) Würtemberg; 20) über Hannover, Baiern und die kleinern teutschen Bundesstaaten und endlich 21) über die brittischen Colonien. Die Dokumente selbst sind meistentheils in der jedesmaligen Landessprache geliefert mit zur Seite gesetzter englischer Uebersetzung, die aber hie und da bedeutend abweicht, und nicht selten, ob aus Mangel an Sprachkenntniß, ob aus böser Absicht, lassen wir dahin gestellt sein, den Geist der Dokumente entstellt. Den Dokumenten, welche als Appendix gedruckt sind, geht ein ziemlich weitläufiger Bericht über die in jedem respektiven Staate obwaltende Verfassung der katholischen Kirche voraus. Dieser Bericht ist in gewisser Beziehung nur eine Analyse der auf denselben folgenden Dokumente.

Was nun die Urkunden über Oestreich betrifft, die allein 176 Seiten des Werkes ausfüllen, so enthalten sie fast den halben Rechberger (Enchiridion juris ecclesiastici Austriaci),

*) Observations on the Laws and ordinances, which exist in foreign States, relative to the religious concerns of their Roman Catholic subjects. Originally published in 1817. eingerückt in seinem Werke: A collection of tracts, on several subjects connected with the civil and religious principles of Catholics. *London 1826. in 8° pag.* 447—479.

mehrere jener bekannten Gesetze aus der unglücklichen Regierung Kaiser Joseph's II. und des Großherzogs Leopold von Toskana, nachherigen Kaisers Leopold II., und Auszüge aus den Werken des verrufenen Carraccioli über Joseph II. und Leopold II. Bei Neapel ist aller Schmutz aus Giannone's Geschichte gegen die Kirche und den heiligen Stuhl zusammengesucht, so wie die schönen Waffenthaten der erlauchten und katholischen bourbonischen Höfe gegen Gregor VII. und seinen Gedächtnißtag. Es ist bekannt, daß sich bereits im Jahr 1729 der Hof von Neapel an Kaiser Carl VI. von Oestreich wandte und ihm die rührendsten Vorstellungen über die unerläßliche Nothwendigkeit machte, die Feier des Gedächtnißtages eines Mannes, wie Gregors VII., der die heilige und unverletzbare Majestätswürde der Fürsten, Könige und Kaiser so frevelhaft verletzt habe, zu verbieten und aus dem Missale, Breviere, den Gebetbüchern und dem Kalender herauszustreichen. Dieser schöne Vorgang war nicht ohne Erfolg. Sämmtliche bourbonische Höfe ließen in den letzten drei Dezennien des verflossenen Jahrhunderts die Gedächtnißfeier Gregors VII. aus dem Missale, Brevier, Kalender u. s. w. streichen, und untersagten ihren Völkern, um bei ihnen zu mehr Ansehen und Würde zu gelangen als ihre Vorfahrer unter Gregor VII. und seinen heiligen Nachfolgern, die Verehrung dieses großen und heiligen Papstes. Ein unwiderlegbarer Beleg, wie die bourbonischen Höfe durch die tiefe Weisheit ihrer jansenistischen Theologen die Revolution schon frühzeitig zu begünstigen verstanden!

Man kann sich leicht vorstellen, welche schöne Dokumente man bei Frankreich vorfinden wird. Ein Auszug aus den Werken von Pithou und Dupuy über die glorreichen Freiheiten der gallikanischen Kirche; mehrere Gesetze der atheistischen Regierungen der unglücklichen Könige Ludwig XV. und XVI.; die Akten der Assemblee von 1682; die pragmatische Sanction von 1438 aus der Schmiede des Concils von Basel, mehrere Dekrete der Nationalversammlung von 1791, dann endlich die beiden Concordate von Napoleon. Nicht minder erbaulich sind die über Spanien beigebrachten Dokumente; sie sind meistens aus neuerer Zeit, aus der Regierung des

schändlichen Aranda, Montiana Y Luyando und Consorten. Hinzugekommen sind ferner jene kleinlichen konstitutionellen Chicanen der Regentschaft vom Jahr 1814 gegen den heiligen Stuhl und dessen Repräsentanten in Madrid. Noch lächerlicherer Natur sind die Dokumente über Portugal. Man liefert die empörenden akademischen Thesen, welche ein Joseph Teachimo de Paiva, Joseph Mouraö, Anton Pereira d'Almeida, Joseph Correa de Sa', Johann Maria Soares Castelbranco, Aloys Thomas Navarro d' Andrade, Joachim de Seiras Dinis, Franz Abreus Pereira, Mänitius Anton Joseph de Miranda, Anton Jourdan, Franz Freire de Mello, Joseph de Lemos Mello, Joachim Joseph Ferrerius, Emanuel Xaverius Ribeiro vas de Carvalho, Franz Joseph de Govvea, Vinzenz Joseph Ferriera Cardozo da Costa und Carl Emanuel Calvet in den Jahren 1783, 1785, 1786, 1792, 1796, 1798, 1799 und 1801 über den Einfluß der weltlichen Gewalt auf die kirchlichen Angelegenheiten auf der ehemals so berühmten Universität von Coimbra, die aber nach der Vertreibung der Jesuiten ein Schlupfwinkel der verworfensten und gottlosesten Männer geworden war, öffentlich vertheidigt hatten. Dann kommen alle Gesetze des scheußlichen Pombal und seines Ministerrathes, denen sich, wie aus demselben Guße, mehrere Gesetze des damaligen Prinz-Regenten Don Pedro anschließen. Ferner sind einige Auszüge aus den Werken des berüchtigten Anton Pereira und des Anton Roberio (Dissertationes selectae de Sacerdotio et Imperio. Olisp. ex Typog. Reg. 1770) beigefügt. Beide Männer hatten ihre feile Feder dem Golde Pombals verkauft.

Was die Schweiz anlangt, so hat sich der edle Lord Stratford Canning nicht viel Mühe gegeben, genaue Nachrichten einzuziehen. Er begnügt sich für alle weitere Nachforschung zwei Brochüren, eine von Balthasar: « De Helvetorum juribus circa sacra. Turigae 1768 » und das anonyme Pamphlet: « Versuch einer analytischen Geschichte der Verhältnisse der weltlichen und geistlichen Gewalt in der Schweiz 1816 » einzusenden. Zur Würze wird schließlich noch ein Verzeichniß der Epochen hinzugefügt, in welchen sich die Schweiz mit dem

heiligen Stuhle zerworfen, und im Heldenkampfe gegen geistliche und weltliche Gewalt versucht hatte. Am kärglichsten, aber auch am ehrlichsten ist Rußland behandelt. Wir lieferten alle Dokumente mit Ausnahme der Aufhebungsbulle der Gesellschaft Jesu von Clemens XIV. Desgleichen verfuhren wir bei Dänemark und Schweden. Bei Preußen scheint der edle Esq. Herr Rose nicht ganz glücklich gewesen zu sein. Er liefert uns einen magern Auszug aus dem alten preußischen Landrechtes. Seine Excellenz Herr Baron Jakobi, preußischer Ministerresident zu London, hatte bereits unter dem 2. Februar 1816 für Herrn Hippisley auf das Bureau des Ministeriums der auswärtigen Angelegenheiten den berühmten Wegweiser von Berlin nach Potsdam des berüchtigten Nikolai (Berlin 1792) niedergelegt, um aus ihm die Rechte der katholischen Kirche in Preußen zu studiren. Risum teneatis amici. Als Beitrag zur Kenntniß der Rechte der katholischen Kirche in den Niederlanden wird ein starker Angriff gegen die Anhänger des römischen Stuhles eingerückt, welcher von den Generalstaaten im Haag am 1. September 1730 mit allem Feuer gegen die katholische Kirche in Form eines Placard unternommen wurde. Er ist ein sprechendes Denkmal der fanatischen Intoleranz der protestantischen Niederländer.

Bei Hamburg lieferten wir die vorgefundenen Dokumente. Am kärglichsten und nachläßigsten sind die Königreiche Sachsen, Würtemberg, Baiern, Hannover und die kleineren protestantischen Staaten, wie Braunschweig, Hessen-Kassel, Hessen-Darmstadt und Baden, behandelt. Hier werden nur Auszüge aus Stäudlins Kirchenstatistik und Klübers politischen Werken geliefert. Reicher und weit wichtiger sind die Dokumente über die neue Gestaltung der katholischen Kirche in den brittischen Kolonien Canada und Malta seit ihrem Gelangen unter englische Herrschaft. Diese Dokumente sind ganz unbekannt. Wir nahmen die wichtigern von ihnen auf.

Den Schluß des Werkes bilden einige unzusammenhängende Actenstücke vermischten Inhalts über verschiedene minder wichtige Angelegenheiten der katholischen Kirche von England, Irland und Amerika. Für Amerika wird im Ganzen nur ein

hoher Staatsbeschluß des wohllöblichen Rathes von New-York vom 16. März 1816 mitgetheilt, in welchem verboten wird, die Bildnisse des heil. Patritius öffentlich in den Häusern, über dem Eingange oder an den Fenstern der Wohnungen auszustellen, oder in den Straßen und auf den öffentlichen Plätzen der Stadt zum Verkaufe herumzutragen.

Noch darf nicht übergangen werden, daß unter den Dokumenten der katholischen Höfe sich stets ein guter Theil jansenistischen Geifers gegen die Bullen «In Coena Domini» und «Unigenitus» befinde.

Hier werfen sich zwei Fragen auf: Welchen Zweck sollte dieses Werk in der Angelegenheit der Emancipation haben, und wie war es für denselben geeignet? Der Zweck konnte allerdings seiner Natur nach ein guter und löblicher gewesen sein, oder hätte es wenigstens werden können, wäre die ganze Sammlung mit Rechtlichkeit und Gewissenhaftigkeit veranstaltet worden. Das Werk sollte eine vollständige Sammlung aller Grundgesetze der katholischen Kirche in den verschiedenen katholischen wie akatholischen Staaten enthalten, um nach ihrem Muster die katholische Kirche Englands, wenn sie frei werden sollte, zu bilden und zu gestalten. Enthält es nun aber derartige für die katholische Kirche brauchbare Gesetze? Gewiß nicht. Es ist vielmehr nur ein gemeines Zeughaus von fluchwürdigen Erlassen gegen die Kirche! Um bei den Dokumenten über Oestreich anzufangen, enthalten sie wohl ein einziges Statut, was im strengen Sinne des Wortes als Gesetz für die katholische Kirche angenommen werden könnte? Die Kirche hat vielmehr öffentlich dagegen reklamirt. Es mag nicht am unrechten Orte sein, hierüber die Stimme eines gefeierten Geschichtsforschers, des berühmten Lingard, zu vernehmen*),

*) But what do these pages contain? The ancient regulations, which for centuries preserved harmony between the Church and State in that powerful empire? No: they offer us nothing but the pretended reforms of the Emperor Joseph, which were asterwards adopted and improved by the National Assembly in France. If some of them were reconcilable, others were irreconcilable with Catholic principles. The emperor might indeed

welcher in dem einzigen Beispiele von Oestreich das Absurde und Abgeschmackte dieser Gesetzsammlung für die katholische

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enforce them by pains and penalties. His right to do so was denied by the bishops in every part of his dominions: and the exercise of such disputed right was considered as a religious persecution.

The character and history of this prince are well known. Possessed with the mania of innovation, and conceiving that every obstacle must yield to his imperial authority, he formed the most visionary schemes, and pursued them with a pertinacity bordering upon madness. His experiments extended to every thing; to the law, the army, the church, and the constitutions of the provincial states. He consulted neither the opinions nor the feelings of his subjects. Institutions the most ancient and most sacred, confirmed by treaties and charters, were swept away: every remaining vestige of the liberty of former times was abolished: and decrees on all kinds of subjects; sometimes indeed salutary, sometimes absurd and impious, were issued in rapid succession. Irritated by the opposition of his clergy, he conceived, in 1785, the idea of separating his dominions from the communion of the Church of Rome. It was the Chevalier Azara, the Spanish minister at the Papal court, who convinced him that his subjects were not yet ripe for such a measure. He therefore reverted to his former plans of reform, and continued to encroach on the spiritual authority of the bishops. It was in vain that the prelates of Austria, of Hungary, of Bohemia, of Germany, and of the Netherlands, protested against them. The remonstrances were treated with contempt: the disobedience of some was punished with fines, of others with exile. Many lost with part of their dioceses, the greater portion of their incomes; and all were stripped of the situations which they held in the provincial states. At length the effect of his innovations, civil and religious, recoiled upon himself. Austria was in a ferment: Hungary was on the point of insurrection: the Netherlands had revolted and established their independence; when his death opportunely saved the monarchy.

While Joseph was acting in this manner, his brother Leopold was Grand Duke of Tuscany. Guided, perhaps driven by the emperor, he pursued a similar course, and was aided by the

Kirche schön und treffend dargethan hat. Was sagen wir erst von den Dokumenten über Spanien, Portugal u. s. w.?

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counsels of Ricci, Bishop of Pistoia. The same edicts were published by the Tuscan government, and equal opposition was made by tke Tuscan bishops. In 1787, the Grand Duke convoked a national council at Florence to sanction these innovations. But the influence of the court was ineffectual: and out of seventeen prelates, four only could be induced to favour the measures of government. After nineteen sessions, the assembly was dissolved with marks of the strongest displeasure on the part of Leopold.

This short statement will, it is presumed, warrant the inference, that the religious edicts of Joseph and Leopold are entitled to very little authority: that, if they shew how far an arbitrary sovereign can sport with the religious liberties of his people, they do not shew, as it might be supposed they do, how far a Catholic prince may conscientiously interfere with the doctrine and discipline of the Catholic church. To adopt such ordinances without inquiry or discrimination, would be to sanction the encroachments of despotism, and to convert the abuse of power into the legitimitate exercise of right.

In opposition to this reasoning may be urged, 1) the resolutions of the congress at Embs, 2) the extracts from some Catholic jurists published among the documents, and 3) the fact that many of Joseph's regulations remain still in force. To such objections the answer is easy.

1) The resolutions of the congress at Embs are of no authority. They are merely articles of a project which was never carried into execution. The emperor had induced Frederic d'Erthal, the Prince of Saxe, and his own brotheé Maximilian, who were electors of Mentz, Treves, and Cologne, and Jerome of Colloredo, archbishop of Saltzburgh, to second him in his plan of reforming the church of Germany. Each of these prelates, in 1786, clandestiuely sent an envoy to the baths of Embs, a singular spot for an assembly of such importance, as it was a Lutheran town in which the exercise of the Catholic religion was severely prohibited. The fruit of the congress was a long memorial of three and twenty articles, which the electors presented to the emperor, and which the emperor returned *to the electors*, with a request, that they would procure the

Niemanden, wäre er auch noch so bethört und ganz von Sinnen, Niemanden kann es einfallen, die Punktation von Ems, die Gesetze eines Josephs II., eines Choiseul, Pombal, Aranda und Tanucci, die mit Hülfe der Philosophen die katholische Kirche anfochten und zu vernichten strebten, für Gesetze der katholischen Kirche auszugeben. Warum hat man sie also gesammelt? Warum hat man sie der neuen Gestaltung der Jahrhunderte lang ihrer Erlösung entgegenseufzenden katholischen Kirche von England, Irland und Schottland unterlegen wollen? Und warum hat man jenen Männern, welche diese hochheilige Völkerfrage zu entscheiden hatten, ein so elendes Machwerk in die Hände gegeben? Bloß um ihr Urtheil zu

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signatures of the other German prelates. One only could be obtained: after some time the very authors of the plan began to feel ashamed: the Elector of Treves was the first to withdraw from the confederacy; he was sollowed by the Elector of Mentz: the two remaining prelates gradually desisted from their pretensions: the French revolution ensued: and all fuor were drivan from their dioceses and dominions. Such was the termination of the affair.

2) The opposition which Joseph had experienced, suggested to him the idea of new-modelling the education of the clergy. With this view he dissolved the universities, abolished the episcopal seminaries, in which the candidates for holy orders were educated under the eye of their respective prelates, and established general seminaries, to which every bishop was ordered to send the young clergymen of his diocese. The professors in the new schools were appointed by the emperor himhelf: and the theology which they taught, was accommodated to his opinions and ordinances. Their chief authority was the Belgian canonist Van Espen, who had been accused of having, to favour his friends the Jansenists, exalted the jurisdiction of the crown by the depression of that of the church: but they pushed his principles to the utmost extent, and drew from them conclusions, which he had not admitted. It is to this new school that we owe the work of Rechberger, from which copious extracts are given in the Appendix to the Reports. Lingard, loc. cit. pag. 452—455.

täuschen! Bloß um die Emancipation zu vereiteln, oder sie in ihren Wirkungen wenigstens zu beschränken und zu hemmen! Kann es uns nun wundern, wenn wir die Lordbischöfe, die Mylords und die Deputirten in den Sitzungen der beiden Häuser während der Zeit der Emancipations-Verhandlung so schöne und erbauliche Tiraden gegen die katholische Kirche haben vorbringen sehen!! Die ganze Weisheit dieser Herren war ja aus dem eben besprochenen Werke geschöpft. Hier suchten sie ihren heiligen Geist, hier ihre Waffen, um in brüderlicher Liebe gegen die katholische Kirche zu Felde zu ziehen.

Ist es uns erlaubt, eine historische Parallele mit diesem Werke anzustellen, so hat es überaus große Aehnlichkeit mit einigen am Anfange der Reformation erschienenen Schriften, wie 1. Fasciculus rerum expetendarum et fugiendarum von Ortuinus Gratius, einem jener edlen Schwertbrüder der virorum obscurorum, die bereits alle Atheisten und Freigeister der Reformation in ihren Reihen zählten; 2) Die Sammlungen von Vox — Acta martyrum etc. 3) Von Flacius Illyricus — Catalogus testium veritatis; 4) Von Christoph Wolf — Lectiones antiquae, und endlich 5) von Baleus — Scriptorum rerum brittanicarum collect. etc., die, so wie unser Report, allen Schmutz gegen die katholische Kirche aufgehäuft und zusammengetragen haben. Nur hat unser Report in gewisser Beziehung, wenn man die hohen Stellen bedenkt, von denen er ausging, den Preis über seine Vorgänger davon getragen. Man sieht demnach aus diesem Werke am besten, wie stationär der Kampf gegen die katholische Kirche geblieben, obschon seit dem Beginne desselben drei glanzvolle Jahrhunderte des Fortschreitens in Bildung, Wissenschaft und Civilisation verflossen sind.

Was nun die von uns aus diesem Report gelieferten Dokumente betrifft, so haben wir alle ausgewählt, die sich nur auswählen ließen. Sie sind sämmtlich von der größten Wichtigkeit und beziehen sich meistens auf die Lage und Stellung der katholischen Kirche in den protestantischen Staaten, worüber die Notizen so selten und so ungenau sind. Die Doku-

mente tragen sämmtlich den Stempel der gesetzlichen Autorität, da sie im Auftrage der protestantischen Regierungen selbst den englischen Geschäftsträgern eingehändigt worden sind. Unter den Dokumenten der katholischen Höfe lieferten wir auch wiederum nur jene, welche wahre gesetzliche Bestimmungen für die katholische Kirche dieser Staaten enthalten. Die wenigen, die wir selbst hinzufügten, sind äußerst interessant für die neuere Zeit und werden es stets bleiben. Sie verdienen die Aufmerksamkeit des Kirchenhistorikers, und wir schmeicheln uns demnach, der Wissenschaft keinen unangenehmen Dienst zu leisten, wenn wir solche der Oeffentlichkeit übergeben.

Noch wäre eine dritte Frage zu beantworten und ein großer Vorwurf, welcher dem Report gemacht werden kann, aufzuheben. Wie kommt es, daß solcher nicht eine Spur von den Verfügungen enthält, welche katholische Fürsten zu Gunsten ihrer protestantischen Unterthanen erlassen haben, und die sich doch sämmtlich durch so große Milde, Liebe, christliche Schonung und Weisheit auszeichnen? Man weiß, wie in allen katholischen Staaten die Protestanten in den Genuß derselben Rechte mit den katholischen Unterthanen gesetzt worden sind. Wie kann demnach ein protestantischer Staat, als an ihm die Reihe war, dieses edle und erhabene Beispiel der katholischen Staaten mit so kaltem Herzen übersehen, als es sich darum handelte, seinen katholischen Unterthanen gleiche Rechte mit den protestantischen zuzuerkennen! Welche Partheilichkeit, welche Ungerechtigkeit! Und wie anders sind die Ansprüche der Katholiken in England im Verhältniß zu den Ansprüchen so mancher kleinen protestantischen Gemeinden in erzkatholischen Staaten? Schon dieser Umstand allein kann, wie Lingard so wahr sich ausdrückt, am deutlichsten darthun, welcher feindselige und beschränkte Geist die Redaktoren des Report geleitet habe *).

*) In conclusion, he would wish to point the attention of the reader to ordinances of foreign states, which do not appear in the Report and Appendix, to the ordinances which have restored the Protestants in Catholic Kingdoms to the full enjoyment

Hat sich der Katholizismus je eine so schmähliche Ungerechtigkeit zu Schulden kommen lassen? Wie edelmüthig verfuhren katholische Fürsten, namentlich in neuerer Zeit, wenn das Loos protestantische Staaten ihrem Scepter unterwarf! Ist es nicht ihr erster Act, die kirchlichen und bürgerlichen Rechte ihrer protestantischen Unterthanen zu sichern, sie in der alten Gestalt aufrecht zu erhalten und zu bekräftigen; wenn ihnen auch nur eine Handvoll Protestanten anheimgefallen! Wie verfahren aber protestantische Fürsten, wenn ihnen ein ähnliches Loos katholische Provinzen zuführt! Ist es nicht ihre vorzüglichste Weisheit, diese Provinzen mit einer Schaar protestantischer Beamten aller Art und Farbe zu bevölkern, die Katholiken zurückzudrängen, den Protestantismus, wie früher den Philosophismus und Illuminatismus, in die Herzen der Familien durch die schlaue Kunst der gemischten Ehen, des Unterrichts, der öffentlichen Erziehung und durch hundert andere gewandte Polypenwendungen zu verpflanzen? Suchet man nicht die Rechte der Katholiken zu untergraben, zu schwächen und endlich ganz aufzuheben, so daß der Katholik wegen der vielen Bedrängniße, die er in seiner heiligen Sache erfährt, zuletzt ganz auf die Vertheidigung seiner Rechte verzichtet oder sie wenigstens nur lau betreibt. Wer wollte alle diese himmelschreienden Ungerechtigkeiten hier aufzählen, deren sich der Protestantismus bei ähnlicher Gelegenheit vor Gott und der Menschheit schuldig gemacht hat und täglich noch schuldig macht!!

of civil rights. In every Catholic country, in which the Protestants exist in any number, all disqualifications on account of religion have been abolished. Now on what conditions whatever. None were ever required. It never occurred to Catholic legislators, when they emancipated their Protestant brethren, that it was necessary to make men purchase the extension of their civil liberties with additional restrictions on the exercise of their religion. L. c. p. 479.

Rom, den 21. Juli 1834.

Augustin Theiner.

Verzeichniß der Aktenstücke.

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N.º I.

A.

Copy of a Circular **Letter** *from the Right honourable Lord Viscount* **Castlereagh**, *His Majesty's Principal Secretary of State for Foreign Affairs, to His Majesty's Ministers at Foreign Courts; dated*

Foreign Office, 12th August 1812.

My Lord, (Sir).

The same mail which delivers to you this letter, will likewise be the bearer of a letter to you from Sir John Hippisley, on the subject of the exact state of the Roman Catholic Religion in the country in which you are resident. I am to request that you will have the goodness to pay every possible attention to the points upon which Sir John Hippisley asks you for information; and that you will transmit to him, through this office, the result of your inquiries,

I am etc.

(Signed) Castlereagh.

B.

Copy of a Circular **Letter** *from the Right honourable Earl* **Bathurst** *to His Majesty's Ministers at Foreign Courts; dated*

Foreign Office, Sept 5th. 1815.

My Lord (Sir).

Sir John Cox Hippisley being engaged in obtaining information, respecting the laws of Foreign Countries, as they affect the Roman Catholics, with the knowlegde,

and approbation of His Majesty's Government, I am to desire that you will shew every possible attention to the communications you may receive from that Gentleman, upon this important subject, and that you will transmit to this office the result of your inquiries upon the different points submitted to your investigation by Sir John Cox Hippisley.

I have the honour to be, my Lord,

Your Lordship's most obedient humble Servant,

(Signed) Bathurst.

N.o II.

A.

Copy of a Dispatch from Robert Gordon, Esq. His Majesty's Minister Plenipotentiary at Vienna, to the Right honourable Lord Viscount Castlereagh, K. G. His Majesty's Principal Secretary of State for Foreign Affairs; dated

Vienna, March 28th 1816.

My Lord.

In reply to your Lordship's circular letter, which I have received through the hands of Sir John Cox Hippisley, accompanied by queries from that gentleman, respecting the degree of Papal influence in this country, I am anxious to detail the observations which I have been enabled to make upon the subject.

No Government has at all times shewn greater jealousy of the interference of the See of Rome in temporal matters than that of Austria, and none has in consequence fortified itself by stronger barriers against the inconveniences of such interference. The council of Trent forms the basis upon which the religious jurisdiction of the country is administered, and hence an indiscriminate

exercise of the *Regium Exequatur* has been vested in the hands of the Crown, thus impeding all intercourse between the heads of the clergy and the Pope which has not been subjected to the inspection of the civil government.

Whilst the Emperor Joseph the II[d] confirmed his right to this authority, as well as to that of nominating all his bishops in the Austrian States, he succeeded in placing Lombardy under the same rules of religious jurisdiction by means of a separate Concordat. In the Venetian States however, and in Dalmatia, the appointment to religious offices has hitherto been vested with the Pope; and a new Concordat will probably now be established for the security of equal privileges to the sovereign throughout his dominions. The Republic of Venice had always an agreement, by which it named its own patriarch, and in virtue of this, the Emperor now assumes the same authority. Hungary is still further removed from the influence of the Roman Pontiff, in as much as the Diet has never subscrived to the articles dictaded by the Council of Trent, which, favourable as many of them were to the liberties of catholic princes and their subjects, throughout the German empire, insured nevertheless a degree o influence to the Court of Rome, which was consideret prejudicial to the proportionate independence of the government of their country.

Under these circumstances it is not necessary for me to state to your Lordship, that the Pope's Nuncio at Vienna is viewed in the same light the Ambassadors from other Foreign Courts, more especially since all intercourse and correspondence upon religious matters with the See of Rome is alone allowed to pass through the hands of the Austrian Minister accredited to that Court. The Emperor moreover, is himself the sole judge of what ought to be transmitted for the decision of the Father of the Church; and it has frequently occurred that H. J. M. has not admitted of reference being made to him, where

the fear of incurring responsibility would have induced one of his bishops to withhold a dispensation in serious matters.

It should be remarked however, that this unterstanding with the Pope has not been allowed to form a basis for his degree of influence in every other country, since he pretends that his influence is proportioned to the power of the country in which it may exerted. As much good equally with much harm can arise tho the cause of religion, from the good will or opposition of a powerful nation, he finds it advisable to be more liberal, in order to ensure a more decided support to the Roman Catholic tenets.

In Bavaria, for instance, he still claims his right to the nomination of the bishops; and a dispute upon this subject is yet raging with the government of that Kingdom.

During the Pope's absence from Rome, and in his captivity, the mode adopted for the nominating to the bishopricks in this country, was simply by forming a chapter of canons in each diocese, which proceeded to the election of its new bishop whenever a vacancy might chance to occur.

In order that your Lordship may form a more correct notion of the state of Ecclesiastical administration in this country, I have the honour to transmit the «*Enchiridion Juris Ecclesiastici Austriaci*,» which embraces every point on which Sir John Cox Hippisley required information; also a copy of a letter addressed by Prince Kaunitz in 1782, tho the then Nuncio at Vienna, which gives satisfactory evidence of the independence of the Austrian government. *Sir John Cox Hippisley having expressed a desire to be possessed of the Edict for the Suppression of the Jesuits, by Clement XIV. I have the honour to enclose it at the same time with this dispatch;* ad to be etc.

(*Signed*) R. Gordon.

The Visc[t] Castlereagh, K. C.
etc. etc. etc.

B.

Extract of a Letter from Robert Gordon, Esq. His Majesty's Minister Plenipotentiary at Vienna, to Sir John Cox Hippisley, Bart. M. P.; dated

Vienna, March 28th 1816.

Sir,

I *Take* the liberty of referring you to my dispatch of this day to Lord Castlereagh, marked (Separate) respecting the information which I have been able to collect touching the inquiries. I had the honour to receive from you some time ago; with it I have transmitted a copy of Prince Kaunitz's letter, and the edict of Clement XIV, for the suppression of the Jesuits. I regret that I have not been able to procure the edicts of Joseph II, in a shape that admits of their being forwarded to you by this opportunity; they are no longer to be found separate; and the only copies I have seen are in the German language, and bound up in folio with other state papers.

The «Enchiridion Juris Ecclesiastici Austriaci» which I have transmitted for your use, explains in the minutest details the religious law and freedom of its exercise in this country, as unconnected with the interference of the Court of Rome; and I flatter myself that you will draw from it every information that can possibly be necessary to your object, as far as Austria is concerned.

The Kingdom in the North of Italy, which has been annexed to the Emperor's dominion, is speedily to be brought under the same administration of ecclesiastical law; and the Pope's authority has already been rejected in the late changes which have been made touching these matters, in the Milanese.

The present Emperor follows literally the spirit which Joseph II. displayed in securing his government from Papal influence, and he lately was upon the point of promulgating an edict to

forbid the establishment of Jesuits throughout his dominions, but has been withheld by a wish not to offend the Court of Rome, when his object might be otherwise attained. He is contented therefore to remain silent, as long as none offer to settle themselves in his country, and is resolved to refuse permission to each individual who may hereafter express such a wish.

I shall be happy to continue my endeavours to procure any information you may further require in pursuance of your objects; and have the honour to be,

Sir

Your most faithful and obedient Servant

R. GORDON.

Sir J. C. Hippisley,
Bart. etc. etc. etc.

N.° III.

A.

A Memorial on Tuscan Legislation in Ecclesiastical Matters, delivered to Lord Burghersh by order of the Secretary of State for Foreign Affairs in Tuscany. (Ordered, by the House of Commons, to be printed, 11th July 1815.)

MEMORIA GIURISDIZIONALE.

Fino da' tempi della Republica Florentina il Governo fù sempre vigilantissimo, chè non restassero mai lesi i diritti sovrani da veruna Autorità, e specialmente dalla Corte di Roma, non permettendo, chè alcun atto di Potenza straniera potesse eseguirsi in Toscana senza la licenza dei Signori; chè non si prendesse possesso di alcun Beneficio senza la stessa licenza; e tenendo ferma la massima, chè la nomina ai Vescovadi cadesse nella persona prescelta dal Governo.

Venuto a stabilirsi il principato, Cosimo I. institui una particolar Segretaria detta della Giurisdizione, affidata in origine al celebre Lellio Torelli, destinata espressamente a preservare i diritti della Sovranità da ogni attentato di qualunque Autorità Estera.

Questa Segretaria della Giurisdizione è sempre esistita fino all' epoca dell' invasione Francese, ed attualmente trovasi ripristinata.

Molte misure furon prese sotto il Governo Austriaco per ritenere nei suoi confini la Giurisdizione Ecclesiastica, e riparare al danno dell' emissione rispettabile di danaro, che, per tanti titoli, passava dalla Toscana alla Corte Pontificia.

Si cominciò colla legge d'Ammortizzazione, vegliante tuttora, che limitò gli acquisti della chiesa, dichiarando manimorte, incapaci d'acquistare, ogni corpo morale, ed ogni individuo legato con voti religiosi.

Fù quindi interamente abolita la Giurisdizione delle Curie Vescovili negli affari giustizia, e transportata ai Tribunali laici, riservata alle Curie la cognizione soltanto degli affari meri spirituali e di coscienza; e quanto alla pretesa immunità degli ecclesiastici, furon obbligati i Vescovi a delegare, una volta per sempre, la loro autorità su i medesimi ai rispettivi Tribunali laicali; ond' è che gli Ecclesiastici, come qualunque altro suddito, sono sotto posti alle misure di giustizia, e di polizia delle magistrature secolari.

Rimase soppresso il Tribunale dell' Inquisizione, come poco coerente alla mansuetudine della Chiesa, e già reso inoperoso.

Le regole della Cancelleria Apostolica con tutte le consequenze, che ne venivano per attirare a Roma la collazione della maggior parte dei Benefizi, restarono affatto proscritte, e restituita ai Vescovi la facoltà di conferirli, in qualunque tempo e modo ne seguisse la vacanza; è siccome non poteva praticarsi l'istesso in rapporto ai Be-

nefizi Consistoriali, ne venne ordinata la soppressione per provvedere con i loro fondi le parocchie le più bisognose.

Quanto poi alle Mense Vescovili è stato sempre tenuto fermo il diritto, che la nomina Papale debba cadere sul soggetto primo nominato nella terna che dal Principe si presenta al Santo Padre.

All' istesso soggetto di sussidiare le parocchie, si fecero servire i capitali, e le rendite delle Campagnie Laicali e di diversi corpi religiosi soppressi.

Si fissò un' età più matura di quella stabilita dal Concilio di *Trento* per la professione religiosa, e fù tolla ai Superiori e Generali esteri ogni influenza su i conventi di Toscana.

Si obbligarono i Vescovi a dar la nota, e sotto porre alla Sovrana approvazione, quegl' individui che si volevano promuovere agli ordini sacri; nè fù permesso ad alcun Vescovo di publicar colle stampe veruna Pastorale o Enciclica, senza la revisione e l'annuenza del Governo.

Si ebbe cura principalmente di tener fermo il *Regio Exequatur* per ogni Breve e dispensa proveniente da Roma, e si andò più oltre, vietanda ai sudditi d'impetrarne dalla Corte Pontificia senza preventiva permissione.

Al diritto di *Regalia* competente ai Sovrani su i vacanti dei Benefizi, fu provveduto mediante l'istituzione dell' economato Regio su tutti i Benefizi vacanti o sospesi, con la dichiarazione, chè gli avanzi non fossero dovuti al nuovo Rettore se non quando non ne fosse stato disposto dal Governo; e questa misura si estese anche alle Mense Vescovili, sulle quali restò, per concordato, inibito al Papa di imporre pensioni, fuorichè sulle due più ricche Mense di Pisa e d'Arezzo, con la condizione che i pensionati fossero designati del Principe.

Queste massime adottate e tenute in vigore sotto il governo Austriaco, soffrirono qualche alterazione durante il governo Borbonico, nè per questo rimase distrutto l'antico sistema di Legislazione giurisdizionale, che riprende

forza attualmente quanto lo permettono le circostanze dei tempi, e la confusione delle cose, sconvolte per le passate vicende.

Li 23 Febbrajo 1815.

Delivered to me as the Regulations of the Tuscan Government, by order of the Secretary of State charged with the Foreign Affairs, Monsieur Fossombroni

15 March 1815.

(Signed) BURGHERSH.

B.

Note from the Minister for Foreign Affairs of Tuscany, to Lord Burghersh, enclosing the Documents (H. J.)

Il sottoscritto Segretario di Stato e Ministro degli Affari Esteri ha l'onore di trasmettere a S. E. Milord Burghersh; Ministro Plenipotenziario di Sua Maestà Britannica una copia del Concordato ultimamente stipulato fra la Santa Sede e la Toscana, riguardo alla ripristinazione degli ordini regolari nel Gran Ducato, non meno che un' esemplare della circolare diretta da questo J. et R. governo in tale occasione ai Vescovi dello stato, accompagnata da una memoria illustrativa.

Profitta il sottoscritto di questa occasione per rinnovare a S. E. Milord Burghersh le proteste dell' alta sua considerazione.

Firenze, li 5 Marzo 1816.

(Signed) * * * * *.

B. Nr. 1.

Note from the Secretary of State for the Home Departement in Tuscany, respecting certain understandings between that Government and the Holy See, on the subject of Religious Orders and Convents.

MEMORIA.

Il real Dipartimento di Stato si crede in dovere di render inteso quello degli affari Esteri, chè sebbe, ne le

operazioni della commissione ecclesiastica per lo stabilimento degli ordini regolari, non siano ancora prossime al loro compimento, ha stimato opportuno di communicare officialmente, tanto alla Segretaria del Regio Dritto, quanto a tutti i vescovi si nazionali, che esteri, aventi giurisdizione nel Gran Ducato, la circolare approvata con rescritto de . . . . Decembre scorso, è di cui rimette qui uniti Nr. 10 esemplari.

Nel porgere questa comunicazione e participazione, non deve il Dipartimento di Stato omettere di far rilevar due cose al Dipartimento degli Affari Esteri, onde possano servirgli di norma nelle istruzioni, che fosse nel caso di trasmettere al Ministro di S. A. J. et R. residente a Roma.

La prima cosa risulta da tutto l'andamento delle trattative che hanno avuto luogo fra il delegato pontificio ed i commissari Toscani, ed il resultato di queste trattative stabilisce chiaramente l'idea, che ambedue i Governi hanno dovuto procedere, e hanno realmente proceduto nell' intelligenza che le sole leggi veglianti in Toscana avanti il 1799, epoca della dolorosa partenza di S. A. J. et R. da questi suoi stati, sono state repristinate dopo il felice ristabilimento del di lui governo, e che per conseguenza a queste sole leggi devono attendersi nelle materie giurisdizionali. Sebbene l'analisi di tutti le leggi ed ordini pubblicati dopo il primo Maggio 1814, convincesse abbastanza di questa massima, tuttavia esso ha ricevuta una nuova conferma del tenore delle domande promosse dalla corte pontificia, specialmente in rapporto alla dipendenza dei regolari dai loro superiori dimoranti in Roma, poichè questa dipendenza era stata indistintamente accordata dalle leggi emanate sotto il governo Borbonico, onde se si è resa nècessaria, è sé si è richiesta l'emanazione di uno circolare che la ristabilisse, è chiaro che l'attuale legislazione Toscana escluderà questa dipendenza medesima, come esclude alcune altre cose che formarono il soggetto delle domande del delegato pontificio, e che la riconos-

ciuta necessità di mantenere in vigore leggi providissime e di tanta utilità per lo stato, impedì di accordare.

La seconda cosa su cui, a scanso di ogni equivoco, è opportuno d'istruire il ministro Toscano residente in Roma, onde l'intelligenza della circolare sia sempre uniforme fra i due governi, è il limite prefisso pér la dipendenza degli ordini regolari dai loro superiori di Roma. Non solo il testo letterale e il materiale significato delle espressioni della circolare ristringe la dipendenza dei regolari di Toscana dai superiori di Roma alla sola operanza della regola interna del loro istituto, ma i documenti della trattativa che formano il corredo della corrispondenza tenuta fra il delegato pontificio, ed i commissarj Toscani, dimostrano che non è stato preteso dal primo, che questa dipendenza fosse portata più oltre che l'ispezione sull' osservanza della regola et interna disciplina dei conventi, e che per conseguenza la proprietà ed amministrazione dei beni, e le persone dei regolari in quanto sono sudditi, rimanessero sempre sotto la tutela delle veglianti leggi, come pure i rapporti fra i religiosi, ed i vescovi e le prescrizioni pure riguardanti i religiosi forestieri.

Nasce da questi principj, chè i Generali di Roma non possono disporre dell' amministrazione delle vendite dei conventi stabiliti in Toscana; chè gl' interessi di patrimonio dei regolari Toscani non devono esser mai promiscuati con quelli dei conventi degli altri stati; chè questi religiosi non possono essere costretti a passare in stato estero, ma solo a rimanere in quei conventi di Toscana a cui saranno destinati dai superiori dei loro ordini; chè non si possono introdurre nei conventi del Gran Ducato, nè portare a carico dei medesimi, religiosi stranieri, a meno che non sene ottenga la preventiva naturalizzazione, a forma delle veglianti leggi, e chè finalmente in nessun rapporto l'accordata dipendenza dai Generali di Roma per il semplice oggetto di mantenere l'uniformità della regola e disciplina, ha alterato le condizioni e le persone dei

religiosi come sudditi, nè le condizioni dei loro beni di fronte a tutte le leggi Toscane veglianti nel 1799, che s'intendono ripristinate nella loro integrità, salvo la sola eccezione della dipendenza dai Superiori di Roma, limitato all' unico oggetto di sopra contemplato.

B. Nr. 2.

Circular Letter from the Secretary of State of the Duke of Tuscany, to the different Bishops, respecting the re-establishment of Religious Convents in Tuscany.

Illustriss. e Rev. Sig. Sig. Padron Colendissimo.

Sua Altezza Imperiale, e Reale bramosa mai sempre di cooperare con tutti i mezzi possibili alla prosperità, e splendore della Religione, e al vero bene dei suoi amatissimi sudditi, e conoscendo di quanta utilità siano alla Chiesa, non meno che allo Stato gli Ordini Regolari di ambedue i sessi, e stata sollecita di prendere le opportune disposizioni, onde coll' intervento dell' Apostolica autorità venissero essi ristabiliti in tutti i suoi felicissimi stati in quel numero, e modo, che le circostanze potessero permettere: essa gode di vedere imminente il compimento dei religiosi suoi voti.

Ed avendo l'A. S. J. e R. sommamente a cuore di vedere rifiorire negli Ordini da ripristinarsi il primitivo spirito di pietà, e di religione, che tanto li distinse, e considerando quanto a perpetuarlo in essi giovi l'assicurarsi preventivamente della vera vocazione degli individui, che vogliono abbracciare lo Stato Religioso, mi ha ordinato di prevenire VS. Illustrissima e Reverendissima della viva fiducia, che ripone nel di lei noto zelo, per cui non vorrà trascurare nè diligenze, nè cautele negli esami, ch' ella dovrà fare, specialmente delle fanciulle, che vorranno consacrarsi alla vita claustrale. S. A. J. e R. riguarda il concorso dell' ispezione episcopale, come il mezzo più efficace, per chè anche il Governo possa essere

sicuro, che lo spirito di vera vocazione, e non alcuno umano, o indiretto riflesso faccia determinare le fanciulle ad una si seria, ed irretrattabile risoluzione.

E poichè l'influenza dei rispettivi Superiori generali è giustamente riguardata come il mezzo il più valevole per mantener viva la regolare disciplina nei Conventi Religiosi, ed è altresi Conveniente, che dapertutto si osservi quella uniformità di regole, che può assicurare lo splendore, ed il decoro delle Famiglie Religiose per l'edificazione dei Fedeli, S. A. J. e R. è contenta, che per l'oggetto sopraindicato gli Ordini Regolari ripristinati in Toscana dipendano dai rispettivi loro Superiori generali, dipendenza, che lascia salvi i diritti, e le prerogative dei Vescovi anche sù tal riguardo.

Vuole S. A. J. e R. chè le doti delle fanciulle, che si monacheranno, debbano per l'avvenire dalle rispettive Famiglie pagarsi ai Monasterj, e siano applicate in utilità dei medesimi.

È intenzione di S. A. J. e R. di promuovere in quanto le sarà possibile i mezzi, che possono condurre alla maggior prosperità della Chiesa, e alla decorosa sussistenza di tutti i suoi Ministri.

Mi faccio un dovere in conformità degli ordini di S. A. Imp. e R. partecipatimi con biglietto della Segretaria Intima del dì 29 Novembre, di renderla direttamente intesa delle sovrane disposizioni, affinchè possano servirle di norma.

E col più distinto ossequio sono

Di VS. Illus. è Reverendiss.

Dall' Imp. e R. Segretaria di Stato

li 1815.

Monsignor

Devotiss. Obbl. Servitore.

N.o IV.

A.

Copy of a Dispatch from Mr. A'Court, His Majesty's Ambassador to the Court of Naples, to the Right honourable Lord Viscount Castlereagh, His Majesty's Principal Secretary of State for Foreign Affairs; dated Naples, January 13th 1816, enclosing Document (E.)

Copy of a Letter from *William A'Court*, Esq, Envoy Extraordinary, etc. at Naples.

Naples, Jan. 13th 1816.

My Lord

I *Have* the honour to aeknowledge the receipt of Lord Bathurst's circular letter, accompanied by a second from Sir John Cox Hippisley, requesting information upon various points connected with the Papal authority in these Kingdoms.

It will be impossible for me, at the present moment, to furnish your Lordship with any very satisfactory information, because these very points are the subject of a negociation now pending between the Papal and Neapolitan governments. *** ******* ** ******** has however promised to communicate to me the result of his nogotiations with the Cardinal *********, whenever they shall assume a definitive Shape.

With respect to the extent of the Papal authority, as it formerly existed, I cannot do better than refer your Lordship to *Giannone's History of Naples*, particularly to the 3d, 4th, 5th and 6th chapters of the 33d book. Your Lordship will there remark the different attempts that have been made at various times to increase this authority, and their successful resistance. From the time that this history was written, down to the present period, the influence of the court of Rome has rather declined than

increased. I have authority of the Secretary of State for assuring your Lordship, that no bull, rescript, non dispensation has ever been acted upon in the Kingdom of Naples, withhout previously receiving the *Regium Exequatur*. These papers are always officially sent by the secretary of state to the procuratore generale, not only for his signature, but also for his approbation on the part and behalf of his Majesty.

In the Island of Sicily the authority of the Popes is more limited than in this Kingdom. I have the honour to enclose the copy of a paper, which has been officially communicated to me, as an outline of the peculiar privileges enjoyed by the sovereigns of that Island.

I do not find that the number of the Jesuits in Palermo is increasing very rapidly. The Padre *Angiolini* is now at Rome, where he acts as procuratore generale of the order. No permission has yet been given for the re-establishment of the Jesuits in this Kingdom, but I hear that such a permission is in contemplation. A very strong note has lately been presented by the Portugueze chargè d'affaires at this court, announcing the determination of his sovereign never to consent to the re-establishment of the order in the Portugueze dominions, and declaring that he will listen to no overture nor mediation upon this subject. I have the honour to enclose a copy of the original brief for the suppression of the order.

I have the honour to be, with great respect,

My Lord

Your Lordship's most obedient humble Servant,

(Signed) William A'Court.

The R[t] Hon[ble] The Lord Viscount
Castlereagh, K. G. etc. etc. etc.

B.

Sketch of the Papal Authority in Sicily, officially delivered to Mr. A'Court; January 11th 1816.

I Re di Sicilia sin dalla fondazione di quella monarchia, che ne fecero i principi Normanni, hanno per concessione de' Sommi Pontefici il particolar privilegio di esser *legati nati* della S. Sede, ed esercitano tale legàzia per mezzo di un giudice cosi detto della monarchia. Questo è un' ecclesiastico laureatō nell' una e nell' altra legge, che conosce e decido in grado di appello le cause decise dalle curie de' Vescovi, e dei metropolitani: ed è ancora giudice competente in prima istanza di tutti coloro, che sono esenti dall' ordinaria giurisdizione de' Vescovi. È inoltre un superiore immediato di tutti gli ordini religiosi, e giudica le di loro cause contenziose.

Gli stessi Re di Sicilia non solamente provvedono sempre tutt' i beneficj di regia dotazione, o sia del regio loro patronato, ma pure nella vacanza delle sedi vescovili, tutti gli altri beneficj, che sarebbero della libera collazione de' Vescovi, e ciò in virtù della cosi detta regalia.

In somma le ordinarie comunicazioni di Sicilia colla corte di Roma non versano in altri oggetti, che nella provista dei vescovadi, per li quali *il re fa la nomina dei soggetti* al S. Padre; e nelle dispense che, previo il sovrano placito, i particolari domandano alla S. Sede per le spirituali loro bisogne.

A true copy

WILLIAM A'COURT.

N.° V.

A.

Riposta alle Notizie domandate intorno alla Giurisdizione Ecclesiastica negli Stati di S. M. in data delli 5 Marzo, 1816.

Le leggi vigenti in Piemonte relativamente alla religione catholica sono siffattamente disposte e co-ordinate, che per niente turbano il governo del Sovrano.

Il governo civile ha per iscopo la felicità temporale de' cittadini; la chiesa ha in mira il bene spirituale di quelli che professano la fede da essa insegnata.

Le due podestà sono tra loro indipendenti ed entrambi riconoscono la loro autorità da Dio. La Chiesa non s'ingerisce nel governo civile, ma insinuando li sublimi precetti evangelici della carità, contribuisce a consolidare l'edificio sociale. La podestà civile nemmeno s'ingerisce direttamente nelle cose ecclesiastiche, ma impartendo la sua protezione alla Chiesa fa si, che non si commettano abusi pregiudiciali non meno alla Chiesa che a cittadini specialmente in ciò, che può direttamente riflettere il temporale.

La giurisdizione della Chiesa è ristretta meramente alle cose ed alle persone ecclesiastiche. Quanto alle cose, appartengono a quella giurisdizione le cause di fede, de' sacri riti, de' sacramenti e de' benefizj.

Riguardo alle persone, gli ecclesiastici debbono convenirsi avanti il foro ecclesiastico, e dove siano attori contro laici, la causa è di giurisdizione del foro secolare.

Tra le cause per altro di giurisdizione ecclesiastica per trattarsi in benefizj o per essere cherici le convenuti, molte vengono introdotte avanti li tribunali secolari per ragione di possesso.

Nella concordata istruzione Pontificia del 1742, si stabilisce che le cause possessorie di queste materie possano

anche portarsi avanti li magistrati laici facendosi luogo a prevenzione tra questi e li tribunali ecclesiastici.

Ora siccome pressochè tutti li contratti che si celebrano si appone, ed a termine delle leggi qui veglianti si intende apposta in tutti li contratti, ed atti d'ultima volontà fatti per istrumento o per scrittura privata la così detta clausula del *costituto professorio*, mercè la quale chi fa l'atto dichiara di possedere a nome di colui a favore del quale si diviene al medesimo, ne segue, che in quasi tutte le cause si può domandare la manutenzione o reintegrazione in possesso, e rimanè lecito a chi intenta la causa di introdurla avanti il foro secolare, ossia avanti il magistrato supremo, che ha la privativa di quelle cause, che per qualche circostanza possono intentarsi nel foro laico contro ecclesiastici per la resa del conto dell' amministrazione di beni laicali; quelle già cominciate contro un laico di cui l'ecclesiastico sia erede (mentre il laico erede di un' ecclesiastico non può continuare nel foro di esso il giudicio che deve pigliarsi nel foro secolare) quelle in cui assieme ad ecclesiastici siano convenuti de' laici, e quelle finalmente in cui l'ecclesiastico sia chiamato in rilevo.

In modo che a poche si riducono le cause contro ecclesiastici che si agitino in quel foro, che tentasi per lo più d'evitare da quegli ecclesiastici che hanno ribrezzo di usare davanti il loro superiore ecclesiastico quelle cavillazioni, di cui per avventura si servirebbero avanti altri tribunali.

Questa giurisdizione ecclesiastica viene esercitata dai vescovi, o da' loro vicarj generali, dalle sentenze de' quali si da' appello all' arcivescovo e da questo al Papa in cui concorre la qualità di Primate d'Italia e Patriarca dell' Occidente. Siccome alcuni Vescovi stranieri hanno una parte delle loro diocesi negli Stati di S. M. per impedire l'estrazione de' sudditi si è in detta istruzione Pontificia stabilito che tali Vescovi debbono stabilire un vicario generale residente in detti stati per provvedere alle cause

de' sudditi, ed a questi vicarj generali si è con lettera del 26 Maggio 1790 del Cardinale Prodatario dichiarato spettare, non solo l'ordinaria giurisdizione ma eziandio la delegata per le dispense matrimoniali.

Per lo stesso motivo le cause di seconda appellazione non si portano à tribunali Romani ma sene commette la cognizione ad ecclesiastici delegati Pontifici negli Stati di S. M. e solo dopo tre delegazioni, e nel caso rarissimo che non sianvi tre sentenze conformi portare si dovrebbe la causa davanti li tribunali Romani; ma anche in questi casi rarissimi non mancano mezzi al governo (che ne è informato per la concessione dell' *Exequatur* di cui si parlerà in appresso) di procurare fralle parti un' amichevole componimento senza permettere ad un simile oggetto l'estrazione de' sudditi. Una delle principali prerogative che preserva da ogni attacco la sovranità temporale ella è quella detta del Regio *Exequatur* consistente nel non potersi dare esecuzione a bolle, brevi, ed altre carte provenienti dall' estero, che abbiano qualche rapporto al foro esterno, e l'esteriore polizia della Chiesa senza averle prima presentate al magistrato supremo, che prendendo ove d'uopo gli ordini del sovrano o le trattiene, o con lettere a parte ne permette l'esecuzione. La succennata istruzione Pontificia autorizza una si esenziale prerogativa, la quale mentre per una parte preserva la regia giurisdizione per l'altra assicura l'esecuzione de' concordati relativamente alla materia beneficiale.

In dipendenza d'un Breve di Nicolao V. del 1451, il sovrano avea il privilegio di nominare a tutti gli arcivescovati ed abbazie esistenti ne' suoi stati, come pure che non si conferissero gli altri beneficj di essi a persone non sudditi o non grate.

Dubitossi nel principio dello scorso secolo se tale dritto spettasse al sovrano anche per gli stati aggiunti posteriormente al 1451. Quindi col Concordato delli 24 Maggio 1727, si dichiarò estensibile a tutti gli stati a quell' epoca

posseduti da nostri sovrani, eccettuate le tre Chiese vescovili di Casale, Acqui, ed Alessandria pelle quali eransi introdotti altri usi prima che passassero in dominio della Real Casa di Savoja. Si mandò in quel Concordato osservare intanto tali usi, giusta li quali in vece della nomina di un solo per ciascheduno di detti vescovati proponevansi tre dal Sovrano, ad uno de' quali doveasi necessariamente il medesimo conferire, ma riservossi ivi al sovrano il diritto di dimostrare competergli ad un tale riguardo una più ampia prerogativa.

Di fatti col Concordato delli 5 Gennajo 1741, venne questo dritto a beneficj consistoriali degli stati posteriormente accresciuti a S. M. e finalmente col Breve degli 11 Giugno 1791, venne estesa la mentovata prerogativa non solo a dette tre chiese, ma a tutti gli stati indistintamente da S. M. allora posseduti.

Egli è evidente, che li Vescovi di questi stati tenendo tutti in dipendenza di questi concordati le loro sedi vescovili dalla nomina di S. M., da cui il rimanente del clero riconosce anche, ed aspetta li beneficj di collazione Pontificia, non hanno, nè possono aver luogo que' dissidj tra il sazerdozio e l'impero, che in altri paesi si videro fomentati contro il sovrano dagli ecclesiastici, che speravano da Roma li benefizj.

Altre questioni furonvi ne' passati secoli relativamente a benefizj ecclesiastici. Pretendevasi dalla curia Romana non solo li frutti de' beneficj vacanti, ma eziandio le spoglie de beneficiati defunti, ossia come si esprimono li concordati infraccennati *la roba lasciata da' beneficiati e da essi acquistata coi frutti dei benefizj.*

Pretendeva per altra parte S. M. la regalia, di cui gode il Re di Francia de' frutti vacanti de' benefizj di regia nomina e di suo patronato e d'altra parte non potevano piacerle le liti, con cui gli credi de' beneficiati suoi sudditi erano molestati dai collettori degli spoglj onde accertare se la roba lasciata da' beneficiati fosse acquistata co' *utti del beneficio.*

Anche tali questioni furono convenute co' tre concordati delli 29 Maggio 1727, 5 Gennajo 1741, e 24 Giugno 1750, coi quali si convenne sostanzialmente:

1.° Che quanto ai vescovati ed abbazie compresi nel Breve di Nicolao V. fossero amministrati pendente la vacanza da una persona ecclesiastica col nome di Regio Economo a vantaggio delle chiese e successori.

2.° Che gli altri beneficj minori vacanti verranno amministrati dagli economi, la di cui nomina spetterà a vescovi, vicarj capitolari, ed abati *nullius* per esserne convertiti li frutti, dedotte le spese e le riparazioni, cioè quanto a beneficj aventi cura d'anime o di patronato, a vantaggio de' successori, e quanto agli altri per una metà a favore de' suddetti e per l'altra metà pelle ivi contemplate opere pie.

3.° Si sono affatto aboliti gli spoglj.

Prendevasi altre volte l'imunità da' carichi per tutti li beni da essi in tale qualità posseduti; venne questa ristretta e ridotta con varj editti de' sovrani sin dal principio del secolo 17°. Dopo varie questioni ad un tale riguardo nella suddetta concordata istruzione del 1742 si ristrinse l'immunità alli beni ecclesiastici, che ne giovano nel 1620 ed avevano continuato ad essere posseduti dalla Chiesa.

In forza d'indulti del 1782 et 1792 già vennero sottoposti tali beni temporaneamente alli carichi, oltrecchè la maggior parte di essi già passò negli anni scorsi a mani laiche.

Quanto alla giurisdizione ecclesiastica in materia criminale si osserverà solo:

1.° Che la giurisdizione quanto ai laici è ristretta all' imposizione di sole pene spirituali, se si eccetterà il delitto di bigamia, che come avente tratto al sacramento del matrimonio venne lasciato nell istruzione Pontificia alla cognizione de' tribunali ecclesiastici.

2.° Che quanto agli ecclesiastici essi vengono bensi giudicati e condannati a pene temporali dal giudice eccle-

siastico, salvo si tratta di delitti più gravi; ma però non mancano al governo li mezzi di contenerli con misure economiche e di difendere si essi che li laici inquisiti di poligamia nel caso di oppressione, giacchè pel esecuzione di tali sentenze debbesi da esso implorare il braccio secolare.

3.° Che colla suddetta istruzione Pontificia e co' brevi delli 3 Settembre 1763, 28 Gennajo, e primo Marzo 1770, 18 Aprile 1776, 11 Dicembre 1779, 9 Aprile 1782, e 15 Settembre 1786, il diritto d'asilo è stato ristretto e quanto a luoghi e quanto ai delitti, in modo che più non turba l'ordine politico.

Sebbene tali siano le leggi e gli usi generalmente veglianti in questi stati relativamente alla religione Catholica, debbesi però avvertire esservi delle eccezioni giacchè in alcune province per particolari circostanze sonosi introdotti degli usi più favorevoli alla giurisdizione laica, che si ebbe la cautela di conservare. Per esempio nella Savoja si osservano gli usi Gallicani, e si dà l'appellazione detta *ab abusu* al senato dalle provvidenze de' Vescovi, e de' tribunali ecclesiastici ne' casi di abuso, di manifesta ingiustizia, o di denegata giustizia; detti usi con qualche modificazione hanno pure luogo nella valle d'Aosta, ed in quella parte della provincia di Pinerolo che fu ne' scorsi secoli posseduta dai Re di Francia.

Nelle province poi successivamente distaccate dal Ducato di Milano, sonovi eziandio usi particolari, parte de' quali vennero indotti dall' indulto di Leone X., de 15 Giugno 1518, a favore di Francesco I., Re di Francia come Duca di Milano.

A termini di questi usi nelle suddette provincie non li soli vescovati e le abazie, ma tutti indistintamente li benefizj vengono amministrati dall' uffizio dell' Economato che ivi assume il titolo di Regio Apostolico.

Detto economato immette in possesso li legittimamente provvisti, esso dà *l'Exequatur* consultato però il senato di Torino, come prima della smembrazione consultava quello

di Milano. In dette province non si dà appello dopo due sentenze conformi, salvo in cause beneficiali, e li sudditi non possono essere tratti a litigari fuori stato, tanto nelle cause civili che nelle criminali.

N.º VI.

Real Cedula de S. M. Y. Señores del consejo, por la que se manda restablecer la Religion de Jesuitas por ahora en los Colegios, Hospicios, Casas Profesas y de Noviciados, Residencias y Misiones establecidas en las Ciudadas y Pueblos que los han pedido, sin perjuicio de extender el restablecimiento á todos los que hubo en los dominios de S. M. y baxo las reglas que se acuerden con vista de loque el Consejo consulte. — Año de 1815.

Don Fernando VII, por la gracia de Dios, Rey de Castilla, de Leon, de Aragon, de las Dos Sicilias, de Jerusalen, de Navarra, de Granada, de Toledo, de Valencia, de Galicia, de Mallorca, de Menorca, de Sevilla, de Cerdeña, de Górdoba, de Córcega, de Murcía, de Jaen, de los Algarbes, de Algeciras, de Gibraltar, de las islas de Canarias, de las Indias Orientales y Occidentales, islas y tierra-firme del mar Océano; Archiduque de Austria; duque de Borgoña, de Brabante y de Milan; conde de Abspurg, de Flandes, Tirol y Barcelona; Señor de Vizcaya y de Molina etc. A los del mi Consejo, presidentes, regentes y oidores de mis audiencias y chancillerías, alcaldes, alguaciles de mi casa y corte, y á todos los corregidores, asistente, intendentes, gobernadores, alcaldes mayores y ordinarios de todas las ciudadas, villas y lugares de estos mis reynos, tanto á los que ahora son, como á los que serán de aqui adelante, y á todas las demas personas á quienes lo contenido en esta mi cédula toca ó tocar pueda en cualquier manera, Sabed: Que por mi secretario de

estado y del despacho de gracia y justicia se dirigió al mi consejo de mi órden con fecha veinte y nueve de Mayo último por medio del duque del Infantado, presidente de él, la siguiente: «Excmo. Señor: Con esta fecha se ha servido el Rey dirigerme el Real decreto siguiente. Desde que por la infinita y especial misericordia de Dios nuestro Señor para conmigo, y para con mis muy leales y amados vasallos, me he visto en medio de ellos restituido al glorioso trono de mis mayores, son muchas y no interrupidas hasta ahora las representaciones que se me han dirigido por provincias, ciudades, villas y lugares de mis reinos por arzobispos, obispos, y otras personas eclesiásticas y seculares de los mismos, de cuya lealtad, amor á su patria é interes verdadero que tomar y han tomado por la felicidad temporal y espiritual de mis vasallos me tienen dadas muy ilustres y claras pruebas, suplicándome muy estrecha y encarecidamente me sirviese restablecer en todos mis domínios la compañía de Jesus, representándome las ventajas que resultarán de ello á todos mis vasallos, y excitándome á seguir el egemplo de otros soberanos de Europa que lo han hecho en sus estados, y muy particularmente el respetable de S. S. que no ha dudado revocar el breve de la de Clemente XIV. de veinte y uno de Julio de mil setecientos setanta y tres, en que se extinguió la orden de los Regulares de la compañía de Jesus, expidiendo la célebre constitucion de veinte y uno de Agosto del año último: Sollicitudine omnium ecclesiarum, etc. Con ocasion de tan serias instancias he procurado tomar mas detenido conocimiento que el que tenia sobre la falsedad de las imputaciones criminales que se han heho á la compañía de Jesus por los emulos y enemigos, no solo suyos, sino mas propiamente de la religion santa de Jesucristo, primera ley fundamental de mi monarquía, que con tanto teson y firmeza han protegido mis gloriosos predecesores, desempeñando el dictado de católicos, que reconocieron y reconocen todos los soberanos, y cuyo zelo y egemplo pienso y deseo seguir

con el auxilio que espero de Dios; y he llegado á convencerme de aquella falsedad, y de que los verdaderos enemigos de la religion y de los tronos eran los que tanto trabajáron y minaron con calumnias, ridiculeces y chismes para desacreditar á la compañía de Jesus, disolverla, y perseguir á sus inocentes individuos. Asi lo ha acreditado la experiencia, porque si la compañía acabó por el triumfo de la impiedad, del mismo modo y por el mismo impulso se ha visto en la triste época pasada desaparecer muchos tronos, males que no habrian podido verificarse existiendo la compañía, antemural inexpugnable de la religion santa de Jesucristo, cuyos dogmas, preceptos y consejos son los que solos pueden formar tan dignos y esforzados vasallos como han acreditado serlo los mios en mi ausencia, con asómbro general del universo. Los enemigos mismos de la compañía de Jesus que mas descarada y sacrilegamente han hablado contra ella, contra su santo fundator, contra su gobierno interior y politica, se han visto precisados á confesar, que se acreditó con rapidez; la prudencia admirable con que fue gobernada; que ha producido ventajas importantes por la buena educacion de la juventud puesta á su cuidado, por el grande ardor con que se aplicaron sus individuos al estudio de la literatura: que produjo hábiles maestros en diferentes ciencias, pudiendo gloriarse haber tenido un mas grande número de buenos escritores que todas las otras comunidades religiosas juntas: que en el nuevo mundo ngercitaron sus talentos con mas claridad y esplendor, y de la manera mas útil y benéfica para la humanidad: que los soñados crímenes se cometian pocos: que el mas grande número de los Jesuitas se ocupaba en el estudio de las ciencias, en las funciones de la religion, teniendo por norma los principios ordinarios que separan á los hombres del vicio, y les conducen á la honestidad y á la virtud. Sin embargo de todo, como mi augusto Abuelo reservó en sí los justos y graves motivos que dijo haber obligado á

su pesar su Real ánimo, á la providencia que tomó de extrañar de todos sus dominos á los Jesuitas, y las demas que contiene la Pragmática - Sancion de Dos de Abril de mil setecientos sesanta y siete, que forma la ley 3, libro 1°, título 26 de la Novissima Recopilacion; y como me consta su religiosidad, su sabiduria, su experiencia en el delicado y sublime arte de reinar; y como el negocio por su naturaleza, relaciones y trascendencias debia ser tratado y examinado en el mi consejo para que con su parecer pudiera Yo asegurar el acierto en su resolucion, he remitido á su consulta con diferentes órdenes varias de las expresadas instancias, y no dudo que en su cumplimiento me aconsejará lo mejor y mas conveniente á mi Real persona y estado, y á la felicidad temporal y espiritual de mis vasallos. Con todo no pudiendo recelar siquiera que el consejo desconozca la necessidad y utilidad pública que ha de seguirse de restablecimiento de la compañía de Jesus; y siendo actualmente mas vivas las súplicas que se me hacen á este fin, he venido en mandar que se restablezca la religion de los Jesuitas por ahora en todas las ciudades y pueblos que los han pedido, sin embargo de lo dispuesto en la expresada Real Pragmática - Sancion de Dos de Abril de mil setecientos sesanta y siete, y de cuantas leyes y Reales órdenes se han expedido con posterioridad para su cumplimiento, que derogo, revoco y anulo en cuanto sea necesario para que tenga pronto y cabal cumplimiento el restablecimiento de los colegios, hospicios, casas profesas y de noviciado, residencias y misiones establecidas en las referidas ciudades y pueblos que los hayan pedido; pero sin perjuicio de extender el restablecimiento á todos los que hubo en mis dominios, y de que asi los restablecidos por este decreto como los que se habiliten por la resolucion que diere á consulta del mismo consejo, queden sujetos á las leyes y reglas que en vista de ella tuviere á bien acordar, encaminadas á la mayor gloria y prosperidad de la monarquía,

como al major régimen y gobierno de compañía de Jesus en uso de la proteccion que debo dispensar á las ordenes religiosas instituidas en mis estados, y de la suprema autoridad económica que el todopoderoso ha depositado en mis manos para la de mis vasallos y respeto de mi corona. Tendreislo entendido, y lo comunicareis para su cumplimiento á quien corresponda. — Y de órden de S. M. ló traslado á V. E. para su inteligencia y cumplimiento del consejo.» Publicada en él la antecedente Real órden en dos de este mes, acordó se guardese y cumpliese lo mandado en ella, y que con su insercion se expidiese esta mi cédula: por la cual os mando á todos y á cada uno de vos en vuestros lugares, distritos y jurisdicciones veais la expresada mi Real resolucion, y la guardeis, cumplais y egecuteis, y hagais guardar, cumplir y egecutar en todo y por todo como en ella se contiene, sin contravenerla, permitir ni dar lugar á que se contravenga en manera alguna. Y encargo á los M. RR. arzobispos, RR. obispos, cabildos de las santas iglesias, prelados seculares y regulares, sus provisores y vicarios, y demas jueces ecclesiásticos de estos mis reinos contribuyan al cumplimiento y observancia de lo que va mandado en lo que les corresponda, dando para ello las órdenes y providencias oportunas: que asi es mi voluntad; y que al traslado impresso de esta mi cédula, firmado de D. Bartolemé Muñoz de Torres, mi secretario, escribano de cámara mas antiguo y de gobierno del mi consejo, se le dé la misma fe y crédito que á su original. Dada en palacio á nueve de junio de mil ochocientos quince, — *Yo el Rey*, — Yo D. Juan Ignacío de Agestarán, secretario del Rey nuestro señor, la hice escribir por su mandado. — El Duque del Infantado. — D. Sebastian de Torres. — D. Nicolas María de Sierra. — D. Luis Melendez y Bruna. — D. Josef Antonio de Larrumbide. — Registrada, Aquilino Escudero. — Teniente de Canciller mayor, Aquilino Escudero

Es copia de su original, de que certifico

D. Bartolomé Muñoz.

N.º VII.

A.

Copy of a Dispatch from Sir Charles Stuart, K. B. Ambassador Extraordinary at Lisbon, to Lord Viscount Castlereagh; dated Lisbon, October 17th 1812.

[Printed, by Order of the House of Commons, May 21, 1813.]

Lisbon, 17th October 1812.

My Lord

I Have been honoured with your Lordship's circular letter, enclosing certain Queries from Sir John Cox Hippisley, tending to ascertain the extent of the jurisdiction exercised by the court of Rome in this Kingdom; whether by the circulation of bulls, the confirmation and nomination of bishops, or in other cases, where the pretensions of that church affect the temporal supremacy of the sovereign.

The question has been frequently and thoroughly canvassed by the principal legal authorities of the Kingdom; and the reasoning they have brought forward in favour of the rights of the crown, has been conclusive; and on few occasions has been combated by the Roman casuits with any degree of success.

In proof of this assertion, I transmit your Lordship, by the present opportunity, the accompanying works of the jurist *Antonio Pereiza*, and of Sûr *Seabra*, with several Public Theses, drawn up according tho the statutes of the university of Coimbra; supporting the doctrines, on which, begond a doubt, all the edicts respecting these important subjects, published since the expulsion of the Jesuits, are legally grounded.

Among these edicts, I send that respecting the bull « de Apostolicum pacendi; » which positively refers to questions of this nature, and adverts to the prohibition of

all publications under ecclesiastical authority, without the previous approval of the government.

The same principle is laid down officially in the letter addressed by D. Luiz de Cunha, the minister in 1770, to the Pope's nuncio; which is not considered to contain doctrines in anywise derogatory to the established laws of the Kingdom.

The following case, which is perfectly applicable to this question, occurred within the last month:

A Portuguese clergyman, intimate with the nuncio, who had written the enclosed pamphlet, in support of the Italian or ultramontane doctrines, having been refused the licences necessary to publication, printed the work in England. A number of copies having been distributed in this country, the principles they inculcated attracted the notice of the Censor, who immediately drew up and transmitted to the government, the very able review I forward; not only at once going over all the points which have been submitted to my consideration by Sir John Cox Hippisley, bu setting forth the actual law of the Kingdom, shewing the dangerous tendency of the doctrines supported by the court of Rome in Portugal, and inducing the government to direct the *procurador da Coroa*, or attorney general, to commence legal proceedings against the author.

Though the concordat drawn up by the queen's ministers in 1778, and of which I enclose a copy, does not answer the tone which is remarkable in M. de Pombal's communications with the clergy and with the court of Rome, yet the paragraph alluded to in the marginal note markedt, evidently shews the Italians do not unterstand that any of the rights formerly maintained by the crown lawyers of Portugal, have been given up.

Though your Lordship is, doubtless well acquainted with the law of Spain on this subject, a consultum of the university of Salamanca, particularly adverting to the situation of the catholics in H. M. dominions, which was

obtained by Marshal Beresford in that city, is so perfectly satisfactory, that I feel il my duty to forward the enclosed copy to your Lordship.

I have the honour to be, etc.

(Signed) Ch[s] Stuart.

B.

Declaration of the Prince Regent of Portugal, Against the Revival of the order of Jesuits.

Copy of a Dispatch addressed to the Portuguese Minister at the Court of Rome.

Palace at Rio Janeiro, April 1, 1815.

His Royal Highness the Prince Regent, my master, having taken under his consideration the intentions of Pope Pius VIIth, as published in his bull, Solicitudo Omnium, dated 7th August of the last year, by which his Holiness has thought proper to revive the company of Jesus, which was extinct, thereby derogating in so far as the authority of the church is concerned, from the other bull, Dominus ac redemptor noster, of Clement XIVth of glorious memory; His Royal Highness is surprised at this determination of his Holiness, this court never having been informed of it in any way before, although it has had most reason to complain of the offences of the company of Jesus, against which Portugal has proceeded in the most energetic manner, by the ordinance Alvara, of September 3, 1759.

The positive intentions of is Royal Highness being to maintain in their utmost rigour the dispositions of the above ordinance, whatever may be the determination of other crowned heads, even of such as associated for the extinction of the said company, my august master commands me to communicate his resolution to you, in order that you may immediately present a note declaratory of the invariable principles which his Royal Highness intends

to maintain, and conformably to which he enjoins your Lordship to admit no negociation, either verbal or written, on this subject. This determination of his Royal Highness being founded on reasons most solid and proper, can never be considered as affecting, in any way, the invariable sentiments of his veneration and filial love towards the sacred person of his Holiness, and which you are especially charged to express.

His Royal Highness has commanded me to write, upon these principles, to the apostolic nuncio; and by a circular addressed to his ministers residing in the courts of Europe, they are ordered to make a similar declaration, in order to prevent every indirect overture which may be attempted to be made on this subject.

(Signed) Marquis D'AGUILLAR.

Jose Manuel Pinto,
Minister Plenipotentiary at the Court of Rome.

C.

Copy of a Letter from the Right honourable Lord Viscount Strangfort, Envoy Extraordinary and Minister Plenipotentiary at the Brazils, to Sir J. C. Hippisley, Bart. enclosing Extracts from the Portuguese Laws on the subject of Papal Bulls, etc.; dated

Rio de Janeiro, February 28, 1813.

Sir

In *answer to the first of the two principal questions* contained in your letter of the sixteenth of last September, il will be easy shew that, *originally, the practice of the Portuguese constitution,* and *more recently, the enactment of specific laws, have uniformly been contrary to the publication, within the Portuguese dominions, of papal rescripts, bulls, or briefs, unless they should have been previously sanctioned by the crown.*

But the most memorable exercise of this restrictive privilege on the part of the crown took place in the reign of King Joseph I° *who refused*, in *various instances*, *to suffer the publication of papal rescripts within his dominions*. By a law dated on the second of April 1768, *the famous bull, denominated Coena Domini, was prohibited, together with rescripts, relating to Indices Expurgatorii;* by another law, dated on the thirtieth of the same month, and in the same year, *the apostolic letters, excommunicating the Duke of Parma*, were rejected; and by a decree of August the twenty-eighth, likewise of that year, *the bull called Animarum Saluti experienced similar treatment. The law* of May the sixth 1765, *proclaims anew the right of the sovereign to refuse the admission of papal mandates;* ad it is a curious fact, that the principal circumstance which led to the promulgation of this law was the capture of a Spanish frigate (the Hermione) by an English line-of-battle ship, on the coast of Algarve. A box of papers, relating to ecclesiastical matters, found on board the prize, was given by the English captain to the Marquis de Louriçal, govornor of Algarve. *Among those papers were discovered various documents, of a tendency so alarming to the temporal interests of the crown of Portugal, that the King's procurador, or attorney-general, incorporated them into the celebrated memorial which he presented to the King, datedon the of May, and which formed the basis of the law above-mentioned.*

Notwithstanding the jealousy of the Kings of Portugal, in rendering the authority of the Pope within their dominions entirely secondary to their own, I do not believe that there exists any law in Portugal rostraining the powers of the inquisition. On the contrary, it is expressly stated (in the Ordens do Reino, Tit. 6, Liv. II.) that the sentences of the inquisition are to be executed without any previous examination whatever. I add a translation of this document, which proceeds on the principle, that

the *inquisition is not an organ for the publication of doctrines, but a tribunal taking cognizance of offences.*

Since the removal of the court to Brazil, I do not conceive that any changes have taken place in the Portuguese laws affecting the power of the Papal See. It is true that the *board for « direction of the affairs of Rome » has been abolished; but the duties of this board merely regarded the forms of soliciting and registering briefs and dispensations, and its functions are now performed by the Desembargo do Paço.*

It is also to be observed, that previously to the arrival of the nuncio, the *bishops established beyond the seas* (os do Ultramar) *exercised powers which those of Portugal must have solicited from Rome. Dispensations were granted, and mariages celebrated, which the nuncio afterwards endeavoured to sed aside; an attempt in which he was opposed by the authority of the crown.*

The court of Brazil has *lately* interfered, in a very peremptory manner, and under the usual pretext of *pro bono pacis*, in the violent dispute which took place between the *nuncio and the abbot* of S. Bento. It dit not, however, pretend to determine the question at issue, and confined itself merely to a positive prohibition of all further discussion.

The great diminution which has occured in the number of Portuguese bishops, and the impossibility of applying to Rome for bulls of consecration, will undoubtedly oblige this court, sooner or later, to have recourse to the expedient of a national council, with the intent of reviving the « *ancient discipline* » of the church. I presume, however, that the influence of the nuncio will be sufficient to prevent the adoption of this plan, at least during the probably short remainder of his life.

With respect to the *second question to which your letten refers*, I have to observe that, *since the extinction of the Jesuits, there does not exist in Portugal any regular*

ecclesiastical corporation receiving orders from generals or chiefs established in foreign countries: and even if such corporations did exist, I should suppose that mandates addressed to them from abroad would come under the provisions either of the law made by Affonço V. or of the Ordonnaçoes do Reino. Liv. II. Tit. 14. §. 1. which enact, that mandates coming from the rectors or heads of foreign universities shall be subject to revision, and must obtain the royal beneplacitum, previously to admission or publication.

I have the honour to be, Sir

Your most obedient humble Servant

STRANGFORT.

N.º VIII.

A.

Decreto della Imperatrice delle Russie Catherina II. Concernente li catholici Romani del suo Impero inviato al Senato, il di 17 Gennaro 1782.

I Nostri antenati, e noi avendo accordato il libero esercizio delle differenti religioni el nostro impero, e fralle altre quella della chiesa Romana; e trovandosi un gran numero di persone, che ne seguono i dogmi ne' differenti siti delle Russie anche i più rimoti, abbiano giudicato necessario nel 1773, di creare per esse un Vescovo fra nostri sudditi, ed abbiamo scelto per una tale dignità il Vescovo Stanislas Tsches Tschersovisch, il quale per le prove non equivoche dateci da lungo tempo del suo osse qnio per la nostra persona, per il zelo per la sua chiesa, per la saggezza con cui ha condotto il gregge affidatogli, e per le sue diligenze per il ben publico s'era reso degno della nostra benevolenza. Attualmente rinnovando le nostre cure verso i nostri sudditi fedeli della religione Romana, dopo di aver prese le misure necessarie per la

migliore direzione degli affari della loro chiesa abbiamo giudicato bene di fare le seguenti disposizioni:

Articolo I. Noi ora creamo la città de Mohilow capitale del governo di un tal nome in arcivescovato della religione Romana, racchiudendo sotto la giurisdizione del suo arcivescovato tutte le chiese, e monasterj di quella religione, che si trovano si nel governo di Mohilow, e di Polotzki, che nelle nostre due capitali, ed in tutte le altre parti del impero Russo.

II. Noi nominiamo graziosamente alla sede arcivescovile della chiesa Romana di Mohilow il Vescovo Stanislao Tsches Tschersovisch.

III. Per ajutarlo nelle sue funzioni noi nominiamo un coadjutore, ed inalziamo a quella dignità l'abate Giovanni Benislaschi canonico dell' arcivescovato di Mohilow, e superiore di Danubergo; e per la sua elevazione alla sede vescovile, noi abbiamo ordinato, che si prendino le misure convenienti.

IV. Sarà assegnato al coadjutore dell' arcivescovato della chiesa di Mohilow 1200 rubli di appannaggio all' anno.

V. L'arcivescovo della chiesa Romana di Mohilow non dovrà ricevere ordine da chi si sia fuorchè di noi, e dal nostro senato.

VI. Quell' arcivescovo creerà un consistoro di alcuni canonici nativi de' nostri stati, o che vi sono naturalizzati, per esaminare, e giudicare sotto la direzione su gli affari tanto ecclesiastici, quanto secolari, che saranno di sua giurisdizione, ma se accadesse, che si dovesse giudicarvi un secolare, allora dovrà far chiamare un deputato dal tribunale di stato per assistere con gli altri membri del consistoro alla sentenza, che succederà, e quelli, che non saranno soddisfatti della sentenza del consistoro, e dell' arcivescovo potranno appellare al senato.

VII. È proibito al Collegio di giustizia di Livonia, di Estonia, e di Finlandia, il prender parte alcuna negli affari concernenti le chiese catholiche Romane.

VIII. La nomina de' Superiori, e capi de' conventi, e de' curati per le parocchie, egli altri avvanzamenti a gradi ecclesiastici della religione Romana dipenderanno in tutta la estensione dell' impero di Russie dalla volontà dell' arcivescovo da noi nominato, a cui ordiniamo di esaminare in persona, o far esaminare dal suo coadjutore tutti li suddetti, superiori, e parrochi, e di lasciare, e di nominare di nuovo quelli, che saranno nati nostri sudditi, o che lo saranno divenuti, e di mettere, e licenziare quelli, che saranno venuti da paesi esteri, e da non soffrirne per l'avvenire, divietando di ricevere sotto pena di essere processati giuridicamente per avere disobbedito a decreté della potestà suprema.

IX. Quanto a ciò, che riguarda la direzione della chiesa Romana di Peterburgo, confermata da' nostri privilegj, e regolamenti, ma perciò, che concerne la nomina de' preti a quella chiesa, si dovrà uniformarsi agli sopracitati regolamenti, per la ragione, che si è sofferto per il passato, che si chiemassero, e si ricevessero de' monachi forestieri, questo fu solamente perchè la Russia non aveva allora i suoi proprj vescovi della religione Romana.

X. Noi conserviamo la proibizione, che abbiamo fatta con gli decreti del 3 Luglio 1779, al governatore generale della Russia Bianca, e del 31 Gennajo 1780, a tutti li governatori gen. di non lasciar entrare nelle nostre frontiere ecclesiastici di nomina estera, e noi ordiniamo, che da per tutto ove se ne presenteranno, siano rimandati con minaccia di consegnarli a tribunali de governi per essere giudicati a norma delle leggi; e finalmente quelli, che in contravenzione del presente decreto li riceveranno senza il permesso dell' arcivescovo saranno inviati agli tribunali competenti per esservi giudicati secondo le leggi.

XI. Noi confermiano, che tutti gli ordini religiosi della religione Romana dipendano unicamente dall' arcivescovo di Mohilow, dal suo coadjutore, e dal suo consistoro, senza, che ardiscano di pretendere di dipendere da alcun

altra potestà ecclesiastica che non sia del nostro impero, di spedirgli parte alcuna delle loro rendite, e ne anco di avere connessione alcuna con essa, sotto pena di essere processati giuridicamente per la disobbedienza alle leggi della potestà suprema.

XII. Noi ordiniamo all' arcivesco della chiesa Romana di Mohilow di spedirci nota circostanziata di tutti li monasterj di quella chiesa, specificando quali di essi giudica veramente utili alla religione, ed alla patria, scia per le loro cognizioni, scia per la istruzione della gioventù, le loro cure a soccorrere i poveri e ad assistere tutti quelli, che sono bisognosi, quali misura dovrà prendere per conservarli; e sibbene quali siano quelli che vivono nella infingardaggine, ed unicamente per loro stessi, che nulla fanno per il ben publico, ma che sono a peso della società, affinchè noi possiamo prendere su tal proposito le megliori mesure possibili per il progresso della gloria di Dio, e per il bene della società.

XIII. Noi confermiamo i nostri precedenti decreti, che divietano di accettare bolla alcuna dal Papa, o alcun altra carta spedita in suo nome, commettendo di consegnarle al nostro senato, il quale dopo di averne esaminato il contenuto, e particolarmente se nulla si trova, che non sia conforme alle leggi del' imperio di Russie, o ai diritti della potestà ecclesiastica, cui noi abbiamo ricevuta da Dio, sarà tenuto di darne il suo parere, e di attendere, il nostro permesso o divieto di rendere pubbliche simili bolle, o scritti.

Il presente decreto deve essere pubblicato per tutto dove appartenirà, e dovrà essere consegnato a tutte le chiese cattoliche, perchè agniuna possa avere cognizione di quanto è publicato con la presente. (L'originale era sottoscritto dal senato dirigente).

(*L. S.*)

Stampato dal senato a Peterburgo, 1782.

B.

Translation of the Ukase of the empress Catharine II. relative to the appointment of two Suffragan Roman Catholic Bishops. Dated Sept. 27, 1795.

Oukase of her Imperial Majesty of all the Russias, from the directing Senate to Mons. de Yutolmin, General in Chief, Senator, Governor Generale of Minks, Volhinsk, Braslavsk and Podolsk, and Knight of several Orders.

In consequence of the oukas of her Imperial Majesty, given to the senate the 6th day of this present September, signed in her majesty's own hand-writing, in which it is thus expressed: — « In the present arrangements of the dominions annexed to our sceptre from Poland, we have examined the reports made to us respecting the spiritual exercise of the Romish religion in the governments of Minks, Volhinsk, Podolsk and Braslavsk, and we find that the bishoprick of Vilna remains vacant, and that the bishops of Lutsk and Kamentsk reside without the boundaries of the empire, and the churches in their dioceses of the Romish faith, remain without ecclesiastical superiors. In directing our sovereign solicitude towards the better establishment of order for the public good in all parts of our empire, we institute for the monasteries and churches of the Romish faith, in the governments of Minks, Volhinsk, Braslavsk and Vosnesensk, two bishopricks, under the appellations of Pinsk and Letitchevsk, ordaining, 1. That the bishop Tsetsishevsky be nominated to the bishoprick of Pinsk of the Romish faith; and the bishop of Serakovsky to that of Letitchev. — 2. Tsetsishevsky, bishop of Pinsk, is in future to enjoy the possession of estates destined to defray the expenses of his establishment, according to his dignity; and to the bishop Serakovsky, we must graciously fix for his maintenance a yearly salary of 3,000 roubles, which are to be paid him from the re-

vennes of those governments. — 3. To the jurisdiction of the bishop of Pinsk, are to belong the monasteries and churches of the Romish persuasion in the government of Minsk and Volhinsk; and to the bishop of Letitchev, is instrusted the conduct of the monastic and secolar clergy of the Romish religion in the governments of Podolsk, Braslavsk and Vosnesensk. — 4. For the examination in these dioceses of causes depending, by ecclesiastical and civil laws, upon the decision of ecclesiastical courts, there are to be established in the houses of the bishops and under their controul, in Pinsk and Letitchev, consistories, consisting of three members chosen by the bishops of those dioceses, from among our subjects. Affairs relating to the trial of causes not belonging to the clergy are to be judget in the consistorial courts, in the presence of a deputy from the civil government; and those who may be dissatisfied with the decision therein pronounced, may prefer their complaints to our senate. — 5. Imposing on the bishops of Pinsk and Letitchev the duty of preserving good order in the monasteries and churches of their bishopsricks, we authorize them to appoint to the monasteries inspectors and other superiors, to consecrate ecclesiastics according to the rites of the Romish religion, and to fix the revenues necessary for the support of the churches. — 6. By virtue of the ordinances published throughout the whole of our empire, we forbid any invitation or admission into our dominions of foreign clergy; and in conformity thereto, all those hitherto sent from without the frontiers, without having sworn fidelity to us, are to be secular judgment for not fulfilling our laws; and all who may establish themselves in such duties are to be sent under arrest into the government courts of justice, to be dealt with according to the laws. — 7. We renew our commands forbidding bishops, monasteries, and all clergy of the Romish feath, to acknowledge themselves dependent on any ecclesiastical powers whatever without

the boundaries of our empire; — to maintain relations prejudicial to the public tranquillity; — to send to those ecclesiastical powers, revenues, or part thereof; — to choose provincial or general superiors; — to obey their orders; — and in case of any bulls being sent from the Pope, or communications written in his name, the said clergy of the Romish faith must act strictly in conformity to the oukase given by us to the senate on the 17th of January 1782, under pain of trial according to the civil laws. In other respects, all monastic orders have to depend solely on the bishops of their dioceses. — 8. We forbid the clergy of the Romish religion under any pretext whatever, to incline, persuade, or convert to the confession of the Romish faith, not only the true believers of the Eastern church, but the followers of other Christian religions, under pain of being prosecuted for such transgression, with the utmost severity of the laws. — 9. We command, that circumstantial reports shall be made to us respecting all the monasteries of the Romish church, mentioning particularly those in which attention is paid to the instruction of youth, or which by other occupations agreeable to God, benefit society. — 10. As to what relates to the parts separated from the said governments, and joined to those of Kiev, Tchernigov, Moghilev and Polotsk, the churches and monasteries of the Romish religion contained therein, are to be under the jurisdiction of the archbishop of Moghilev, of the Romish church, by virtue of the oukase given by us to the senate, on the 17th of January 1782. The directing senate have commanded: For the due fulfilment of the oukase of her Imperial majesty, the said oukase is transmitted to you, general in chief, senator and knight, to the end that you, in communicating through the proper channel, these her Imperial majesty's supreme commands to Serakovsky, bishop of the diocese of Letitchev, and to Tsetsishevsky, of the diocese of Pinsk, should also

from yourself prescribe to them that they, in conformity to the oth article of this oukase, should send to the senate without delay circumstantial reports, each in his diocese, respecting all the monasteries of the Romish church, with the remarks as ordained by the said article, in order to be submitted to her Imperial majesty. And for the due fulfilment of the said oukase respecting the parts separated from the said government, and joined to those of Kiev, Tchernigov, Moghilev, and Polotsk, and included in the ecclesiastical administration of the Romish faith, under the jurisdiction of Sestrentsevitch, archbishop of Moghilev, of the Romish church, it is to be prescribed to the said archbishop, that he should without delay transmit to the senate the reports required respecting the Romish monasteries contained in those places; for which purpose, the oukase is transmitted to the said archbishop, and in like manner it is made known to count Platow Alekcandrovitch Zouboff, general of artillery, governor general of Ekaterinoslav, Vosnesensk and Favretchev, and Knight of several orders; to Peter Petrovitch Passek, general in Chief, governor generel of White Russia, as also to the governors of Kiev and Tchernigov.

The original signed, Chief Secretary, Yavery Litinsky; Secretary, Sergei Podobiedov; Honorary Counsellor, Paul Ikosoff.

(A true translation)

Bara Nicolay.

September 27, 1795.

C.

Oukase de sa Majesté l'empereur au Senat dirigeant.

(Traduction officielle.)

Revenu après une heureuse conclusion des affaires exterieures dans l'empire que Dieu nous a confié, nous avons été informés par beaucoup de notions, de plaintes et de rapportes des circonstances suivantes:

L'ordre religieux des Jésuites de l'église catholique Romaine avoit été aboli par une bulle du Pape. En conséquence de cette mesure, les Jésuites furent expulsés, non-seulement des états de l'église, mais aussi de tous les autres pays; ils ne purent demeurer nulle-part. La Russie seule, constamment guidée par des sentimens d'humanité et de tolérance, les conserva chez elle, leur accorda un asyle et assura leur tranquillité sous sa puissante protection. Elle ne mit aucun obstacle au libre exercice de leur culte; elle ne les en détourna ni par la force, ni par des persécutions, ni par des séductions; mais en retour elle crut pouvoir attendre de leur part de la fidélité, du devouement et de l'utilité. Dans cet espoir, on leur permit de se vouer à l'éducation et à l'instruction de la jeunesse. Les pères et les mères leur confièrent sans crainte leurs enfans pour leur enseigner les sciences et former leurs moeurs.

Maintenant il vient d'être constaté qu'ils n'ont point rempli les devoirs que leur imposoit la reconnaissance; qu'ils ne se sont pas maintenus dans cette humilité que commande la religion Chrétienne, et qu'au lieu de demeurer habitants paisibles dans un pays étranger, ils ont entrepris de troubler la religion Grecque qui depuis les temps les plus reculés est la religion dominante dans notre empire, et sur laquelle comme sur un roc inébranlable, reposent la tranquillité et le bonheur des peuples soumis à notre sceptre. Ils ont commencé d'abord par abuser de la confiance qu'ils avoient obtenue. Ils ont dé-

tourné de notre culte des jeunes gens qui leur avoient été confiés, et quelques femmes d'un esprit foible et inconséquent, et les ont attirés a leur église.

Porter un homme à abjurer sa foi, la foi de ses ayeux; éteindre en lui l'amour pour ceux qui professent le même culte, le rendre étranger à sa patrie, semer la zizanie et l'animosité dans les familles, détacher le frère du frère, le fils du père, et la fille de la mère, faire naître des divisions parmi les enfans de la même église; est-ce là la voix et la volonté de Dieu, et de son divin fils Jésus-Christ, notre Sauveur, qui a veré pour nous son sang le plus pur, « *afin que nous menions une vie paisible et tranquille, dans toutes sortes de piété et d'honnêteté.* » Après de pareilles actions, nous ne sommes plus surpris, que l'ordre de ces religieux ait été éloigné de tous les pays, et toléré nulle part. Quel est en effect l'état qui pourra souffrir dans son sein ceux qui y répandent la haine et le trouble?

Constamment occupés à veiller au bien être de nos fidèles sujets, et considérant comme un devoir sage et sacré d'arrêter le mal dans son origine, afin qu'il ne puisse mûrir et produire des fruits amers, nous avons en conséquence résolu d'ordonner:

I. Qué l'église catholique qui se trouve ici, fût rétablie de nouveau, sur le pied où elle étoit durant le règne de notre ayeule de glorieuse mémoire, l'imperatrice Catherine II. et jusqu'à l'année 1800.

II. De faire sortir immédiatement de St. Pétersbourg tous les religieux de l'ordre des Jésuites.

III. De leur défendre l'entrée dans nos deux capitales.

Nous avons donné des ordres particuliers à nos ministres de la police et de l'instruction publique, pour la prompte exécution de cette détermination, et pour tout ce qui concerne la maison et l'institut occupés jusqu'ici par les Jésuites. En même tems, et pour qu'il n'y ait point d'interruption dans le service divin, nous avons

prescrit au métropolitain de l'église catholique Romaine, de faire remplacer les Jésuites par des prêtres du même rit qui se trouvent ici, jusqu'à l'arrivée des religieux d'un autre ordre catholique, que nous avons fait venir à cet effet.

Le 20. Décembre 1815.

L'original est signé: ALEXANDRE.

Pour copie conforme

Le Directeur du Département,

FOURGOUBEFF.

D.

Bull of Pope Pius VII, for the Restoration of the Order of Jesuits. (Printed by Order of the House of Commons, July 11, 1815.)

Sanctissimi in Christo patris, et Domini nostri Domini PII, divina providentia Papae septimi constitutio, qua societas Jesu in statum pristinum in universo orbe Catholico restituitur.

Pius Episcopus Servus Servorum Dei (ad perpetuam rei memoriam.)

SOLLICITUDO omnium ecclesiarum humanitati nostrae meritis licet, et viribus impari, Deo sic disponente, concredita, nos cogit omnia illa subsidia adhibere, quae in nostra sunt potestate, quaeque a divina providentia nobis misericorditer subministrantur, ut spiritualibus Christiani orbis necessitatibus, quantum quidem diversae, multiplicesque temporum locorumque vicissitudines ferunt, nullo populorum et nationum habito discrimine, opportune subveniamus.

Hujus nostri pastoralis officii oneri satisfacere cupientes, statim, ac nunc in vivis agens, Franciscus Karen, et alii saeculares presbyteri a pluribus annis in amplissimo Russiaco imperio existentes, et olim addicti societati Jesu a felicis recordationis Clemente XIV, predecessore nostro suppressae, preces nobis obtulerunt, quibus facultatem

sibi fieri supplicabant, ut auctoritate nostra in unum corpus coalescerent, quo facilius juventuti fidei rudimentis erudiendae, et bonis moribus imbuendae ex proprii instituti ratione operam darent, munus praedicationis obirent, confessionibus excipiendis incumberent, et alia sacramenta administrarent, eorumque precibus eo libentius annuendum nobis esse duximus, quod imperator Paulus primus, tunc temporis regnans, eosdem presbyteros impense nobis commendavisset, humanissimis litteris suis die undecima Augusti anni Domini millesimi octingesimi ad nos datis, quibus singularem suam erga ipsos benevolentiam significans gratum sibi fore declarabat, si catholicorum imperii sui bono societas Jesu auctoritate nostra ibidem constitueretur.

Qua propter nos attenti animo perpendentes quam ingentes utilitates in amplissimas illas regiones, evangelicis operariis propemodum destitutas, essent proventurae, quantumque incrementum ejusmodi ecclesiastici viri, quorum probati mores tantis laudum praeconiis commendabantur, assiduo labore, intenso salutis animarum procurando studio, et indefessa verbi divini praedicatione catholicae religioni essent allaturi, tanti tamque benefici principis votis obsecondare rationi consentaneum existimavimus. Nostris itaque in forma brevis litteris datis die septima Martii, anno Domini milesimi octingentesimi primi praedicto Francisco Kareu, aliisque ejus sodalibus in Russiaco imperio degentibus, aut qui aliunde illuc se conferre possent, facultatem concessimus, ut in unum corpus, seu congregationem societatis Jesu conjungi, unirique liberum ipsis esset, in una vel pluribus domibus, arbitrio superioris, intra fines dumtaxat imperii Russiaci, designandis; atque ejus congregationis praepositum generalem eundem presbyterum Franciscum Kareu ad nostrum, et Sedis Apostolicae beneplacitum, deputavimus, cum facultatibus necessariis et opportunis, ut sancti Ignatii de Loyola regulam a felicis recordationis Paulo tertio prae-

decessore nostro, apostolicis suis constitutionibus, approbatam, et confirmatam retinerent et sequerentur: atque ut hoc pacto socii in uno religioso coetu congregati juventuti religioni ac bonis artibus imbuendae operam dare, seminaria et collegia regere, et probantibus ac consentientibus locorum ordinariis confessiones excipere, verbum Dei annunciare, et sacramenta administrare libere possent; et congregationem societatis Jesu sub nostra et Apostolicae Sedis immediata tutela, et subjectione recepimus, et quae ad illam firmandam et communiendam, atque ab abusibus et corruptelis, quae forte irrepsissent, repurgandam visum fuisset in Domino expedire, nobis ac successoribus nostris, praescribenda et sancienda reservavimus; atque ad hunc effectum constitutionibus apostolicis, statutis, consuetudinibus, privilegiis, et indultis, quomodolibet in contrarium praemissorum concessis et confirmatis, praesertim litteris apostolicis memorati Clementis XIV. praedecessoris nostri incipientibus « *Dominus ac Redemptor noster* » expresse derogavimus in iis tantum quae contraria essent dictis nostris in forma brevis litteris quarum initium *Catholicae* et dumtaxat pro Russiaco imperio, elargitis.

Consilia, quae pro Russiaco imperio capienda decrevimus, ad utriusque Siciliae regnum, non ita multo post, extendenda censuimus ad preces charissimi in Christo Filii nostri Ferdinandi regis, qui a nobis postulavit, ut societas Jesu eo modo, quo in praefato imperio stabilita a nobis fuerat, in sua quoque ditione ac statibus stabiliretur; quoniam luctuosissimis illis temporibus ad juvenes Christiana pietate ac timore Domini, qui est initium sapientiae, informandos, doctrinaque et scientiis instruendos praecipue in collegiis scholisque publicis clericorum regularium societati Jesu opera uti in primis opportunum ubi arbitrabatur. Nos ex muneris nostri pastoralis debito piis tam illustris principis desideriis, quae ad majorem Dei gloriam, animarumque salutem unice spectabant,

morem gerere exoptantes nostras litteras pro Russiaco imperio datas, ad utriusque Siciliae regnum extendimus novis in simili forma brevis litteris incipientibus: *Per alias* expeditis die trigesima Julii anni domini millesimi octingentesimi quarti.

Pro ejusdem societatis Jesu restitutione unanimi fere totius Christiani orbis consensu instantes, urgentesque petitiones a venerabilibus fratribus archiepiscopis et episcopis, atque ab omnium insignium personarum ordine et coetu quotidie ad nos feruntur; praesertim postquam fama ubique vulgata est uberrimorum fructuum, quos haec societas in memoratis regionibus protulerat, quaeque prolis in dies crescentis foecunda, dominicum agrum latissime ornatura, et dilatatura putabatur.

Dispersio ipsa lapidum sanctuarii ob recentes calamitates, et vicissitudines, quas deflere potius juvat, quam in memoriam revocare, fatiscens disciplina regularium ordinum (religionis et ecclesiae catholicae splendor et columen) quibus nunc reparandis cogitationes curaequae nostrae diriguntur, efflagitant, ut tam aequis et communibus votis assensum nostrum praebeamus. Gravissimi enim criminis in conspectu Dei reos nos esse crederemus, si in tantis reipublicae necessitatibus ea salutaria auxilia adhibere negligeremus, quae singulari providentia Deus nobis suppeditat, et si nos, in Petri navicula assiduis turbinibus agitata et concusa collocati, expertes et validos, qui sese nobis offerunt, remiges ad frangendos pelagi naufragium nobis et exitium quovis momento minitantis fluctus, respueremus.

Tot ac tantis rationum momentis, tamque gravibus causis animum nostrum moventibus id exequi tandem statuimus, quod in ipso pontificatus nostri exordio vehementer optabamus. Postquam igitur Divinum auxilium ferventibus precibus imploravimus, suffragiis et consiliis plurimum venerabilum fratrum nostrorum sanctae Romanae ecclesiae cardinalium auditis, ex certa scientia, deque

Doctor Munter, the bishop of Zealand, so well known by his works on religious subjects, and who has furnished me whith much information connected with the present inquiry, states, that no bulls have ever been presented to the Danish government, nor has the Regium Exequatur ever been required.

The Roman catholic churches in this country are subject to no visitation, although it is understood that they are under the inspection of the bishops of the established church, who endeavour, as much as possible, to prevent their making proselytes. The communications of the Danish government are made to them by the bishops in Denmark Proper, or in the duchies by the consistories, the superintendent-general, or the provosts of such districts as do not belong to his diocese.

With respect to the Jesuits, your Lordship will observe, that they are most strictly prohibited by law from entering the kingdom. Doctor Munter asserts, that in the year 1769, the royal dispensation was necessary in order to enable the celebrated astronomer Hall, of Vienna, who was of the order of Jesus, to proceed to Wardaehuus in Norway, for the purpose of making his observations on the passage of the planet Venus over the sun's disk.

All the Roman catholic priests who are in function receive their mission from the bishop of Hildesheim. They are called missionaries, and provided with very extensive powers, but they dare not absolve in any case which the See of Rome has reserved to itself in the bull in Coena Domini.

That no information may be wanting which might be judged necessary by your Lordship upon this important subject, I also transmit a *precis* of the laws of Denmark relative to the Roman catholics, which I have had translated, having received it in Danish, by favour of the

minister of justice and cabinet minister Mons[r] de Kaas.

I have the honour to be, with the highest respect

My Lord,

Your Lordship's most obedient humble Servant.

(Signed) Aug. J. Foster.

Rigt Hon. Visc. Castlereagh
K. G. etc. etc. etc.

B.

Extracts from such Decisions of the Danish Laws as regard the free exercise of the Roman Catholic Religion in his Majesty the King of Denmarks Dominions.

By the fundamental, or king's law, issued out by king Frederick the third, being authorized thereto by the States assembled on the 14th of November 1665, the said law to be an unaltered, for ever established, fundamental law for the Danish state; it was appointed and fixed in the first article: — that the predominant religion of the country should be the Evangelical Lutheran, as professed and agreed upon at the public confession held at Augsburg in the year 1530, charging at the same time all the subsequent kings, as a duty incumbent on them, to keep their subjects to the said pure and true Christian doctrine, to protect and maintain it, and forcibly defend it, in these countries, against all heresy, fanaticism, and blasphemy.

According to the above stated law, his Majesty king Christian the Vth, was most graciously pleased to order and command in the Danish law, book 2, chap. 1. that the Evangelical Lutheran religion, as mentioned above, should be solely permitted in the state of Denmark. In the 6th book, 1st, 3d, and 4th articles of the said law, it was further ordained, that no Roman catholic, or any other from the established religion *deviating confessors*,

must be tolerated in this country, and that no monks, jesuits, and the like papistical persons (who at that time in particular vere suspected of endeavouring to subvert the inhabitants of the country from the established religion) must, at the forfeit of their lives come into his majesty's land and dominions, aud that those who knowingly housed or afforded them place to exercise their Roman catholic rites, were to be punished like those that house and harbour outlaws.

As an exception from the above general law against the exercise of foreign religions, it was permitted (6th b. 1—5) that foreign ministers who resided here, and were acknowledged as such at his majesty's court, and confessed a foreign religion, were allowed free exercise of religion in their own houses, for them and their attendants, however with this proviso that no sermon must be preached but in their own language, and that their priests must not preach, distribute the sacrament, or undertake any other office belonging to their religion, to other persons than to the foreign ministers and their attendants, though other persons who might wish to partake in divine service were of the same confession.

Before the publication of thé law of Christian Vth a special bill, dated the 26th of September 1671, permits the French ambassador, Chevalier Terlon, to build a place or residence with a church or chapel, in which he and his successors were granted a free and undisturbed exercise of their religion; thus he was also permitted to purchase a burying ground to the chapel. Later, the Austrian imperial minister was also granted the right to establish a Roman catholic chapel in Copenhagen, together with a burying ground, both under the imperial protection.

The above stated determination of the law, b. 6, chap. 1, art. 5, asserting how far the ambassadors of foreign religions residing here, were permitted to suffer their clergymen to keep divine service in this country, having been

mitigated by special allowance, and in fact not exactly adhered to, was at length, by the bill, dated September 19th, 1766, art. 11th, particularly with regard to the confessors of the Roman catholic religion, thus altered: — 'That the priests belonging to the foreign ministers of the Roman catholic religion were permitted to preach, distribute the sacrament, baptize, join in wedlock, in short, perform any divine service for Roman catholic persons, who prove either that they be born by (of) Roman catholic parents, or as catholics settled in this country; but at the same time they were prohibited to perform divine service to other persons than the above mentioned, under penalty of being, for such transgression, and after previous agreement with the ambassador, immediately turned out of the country. The said punishment is fixed for such Roman catholic priests who shall be found to persuade or receive any inhabitant and confessor of the established religion of the country, either to instruction or confession; and if it be another Roman catholic of the king's subjects who renders himself guilty of such transgression, he is to be punished by imprisonment for a certain number of years, according to the circumstance of the case; to which is added, that this punishment shall be executed, even though the person in question voluntarily applied in order to be made a Roman catholic. No jesuit can be suffered as a Roman catholic priest.

The determinations of the law, however, are so far still in virtue, or full power, as that the confessors of the Roman catholic religion be not allowed to exercise any public divine service, or performance of rites, except at such places to which such privileges as above mentioned, are already granted; thus it also follows of course, that the Roman catholic church, as tolerated only, not like the general established church of the country, can be supported by public taxes; the Roman catholics, on the contrary, must contribute to the support of the church of the

state, by paying certain *per cents* of their landed property, if they be in possession of any, and if they live in cities or towns, by paying the usual fees to the clergy of the parish.

Equally, as well as prohibitions have been made, and punishment fixed upon, for those persons who pass over to the Roman catholic religion; thus the 6th Chap. b. I. art. 1. fix, a certain punishment for such persons, who embrace this religion. For it is there stated that nobody (whoever he or she may be) being convicted of having turned apostate to the Roman catholic religion, can take possession of any inheritance, which, on the contrary, is to devolve on his or her nearest relations or heirs; but in case he or she took possession of his or her inheritance, before he or she changed his or her religion, he or she may keep it, being however obliged to leave his majesty's dominions.

Though this law, according to the sense of the common expression, «nobody, whoever he be,» might seem to concern every body who from any other religion turned a confessor of the Roman catholic, still it can reasonably be applied but on those who turn from the established religion to that of the Roman catholic, which is evident from the expression of the legislator, «*apostate;*» a contrary supposition would imply, that a jew, for instance, who embraced the Roman catholic religion ought to be punished, notwithstandig by turning a Roman catholic he approached the religion of the country more than he did before. That the legislature mode use of this general expression is owing to a law of King Christian IV, in which, instead of the above expression, are used the words: nobody, neither noble nor ignoble.

Besides this prohibition against apostatizing to the Roman catholic religion, it is further ordained by a law dated Sept, 19, 1766. art. 10th, that in case any Lutheran settled in his Majesty's dominions, happens to travel

out of the country, and abroad turn Roman catholic, he is prohibited from ever entering into the king's states; and those who already have embraced the Roman catholic religion, and are returned, are to appear before the Lutheran rector in whose parish he resides, in order to receive instructions from him.

With regard to the right of a Roman catholic of entering into the married state in this country, the law of 6th of March 1813, ought first to be attended to. According to this law, every clergyman of a foreign religion, residing in this country, is prohibited to officiate at, or undertake any wedding with legal authority, without having acquired a special licence, through the Danish inn of chancery, to which department the said Clergy are to send in a full statement of the names, conditions, and religion of the persons concerned.

The same law ordains, that every clergyman of foreign religion (consequently those of the Roman catholic too) are yearly to send in an exact list of the persons belonging to their community, as well grown people as children.

When marriage takes place between two persons confessing the Roman catholic religion, the law, dated Sept. 19, 1766, art. 5, ordains that the childern may be ininstructed in the religion of their parents, whose duty however it is, before the police master or magistrate, and in case the father be a military person, before the commander of the regiment to which he belongs, to state in what place, and by whom they are instructed, in order that full information may be obtained, if necessary. But if a Roman catholic enters into marriage with a Lutheran, not only the ceremony of wedding is to be performed by a Lutheran clergyman, but all the childern are also to be baptized by a Lutheran clergyman; and according to the law of 6th of Sept. 1690, 22d of Oct. 1701, 13th of May 1728, and other laws to this purpose,

the children are to be educated in the Lutheran religion: to this the Roman catholic, by virtue of the law dated 13th of May 1720, is to bind and oblige himself by writing, before the nuptials are allowed to take place; not only the magistrate, but even the landlords of houses, and all civil officers, are charged with the duest attention to, *(this)* that the childern who are born in mixed marriages, be educated in the Lutheran religion; in the like manner the law, dated 19th of Sept. 1766, b. 7, ordains that such children, though they already may have frequented Roman catholic schools, and portaken of our Lord's supper under an officiating Roman catholic priest, still they are to be educated in the Lutheran religion, though they may have obtained (attained) an age of 17 years; in case of a refusal to submit to the law, they are severely to be punished. When marriage is contracted between a Roman catholic and a person of a religion tolerated in the country, the wedding is to be performed by the clergyman to whose parish the bride belongs (vid. law 16th Dec. 1791); and with regard to the children it undoubtedly ought to be left to the parents to agree about in which religion they are to be educated; but where no such agreement is made, the sons are supposed to be educated in the religion of their father, in the same manner as the daughters in that of their mother.

In the 6th book, 1st chapter 2d art. of the law, it is ordered, *that none who has studied at a school or university belonging to the jesuits, must be trusted with any office either in the schools or churches;* and an other law, dated 24th of May 1813, as well as (one of) 29th of July 1814, concerning the public country schools, have ordained, that nobody who does not confess the protestantical christian religion may be admitted as patron for public schools in the country.

According to the regulations for the university, dated 7th of May 1788, chap. 1. art. 15. the professors ought

in general to confess the Lutheran religion; as to professors of sciences, not interfering with religion, the king has reserved to himself the right, in extraordinary cases, to allow a dispensation in this respect.

As to the rest, no determination is made in the Danish laws, excluding any Roman catholic from being trusted with any office in the state, except such, the subject of which is instruction in religion, or the superintendence thereof. The Roman catholic inhabitants of the Danish islands in the West Indies, have even received a positive promise of such rights, by the law dated 20th September 1754; however, with the exception of being employed in any office of government, or where command is supposed.

By a Law, dated July 6th, 1695, it was ordered, that as noblemen, and those who enjoy the lame rights as noblemen, were entitled to appoint clergymen to such churches as they were in possession of then, in case the proprietor belongs to the Roman catholic or reformed church, his privilege should only extend so far as to propose three proper ecclesiastics of the Lutheran evangelical religion, of which the king would appoint one. By a further law, dated September 7th, 1770, it was also ordained, that such proprietors of churches, who were Roman catholics or reformed, were not allowed to appoint clerks or chanters, but were only allowed to propose three subjects, of whom the bishop was to appoint one. But as the privilege of appointing clergymen under the said restriction was made general to all, by his majesty's resolution, dated May 24th, 1809, it proved the same to the Roman catholics and reformed. By the law, dated 24th May 1813, it was ordered in general, that nobody who did not confess the protestantical christian religion, could ever be appointed patron of a church or school. With regard to such persons who at present migt be in possession of a church, it was ordered so, that the rector of the church was to demand the revenues, pay the ex-

penses incumbent on the church, etc. etc. and send in his account to the owner: the rector to receive 10 per cent. of the income the expenses being deducted.

It ought further to be observed, that the Roman catholics, by virtue of several special licenses, are permitted free exercise of their religion in different places of the country. Thus, in the privileges granted the city of Fridericia in the year 1682, the Roman catholics are allowed free exercise of their religion; and by a special permission through the inn of chancery, dated 4th of March, and 22d of July 1797, they were allowed a burying-ground. By further resolutions of 17th August, 26th December, 1705, 17th August 1707 and 2d October 1744, the Roman catholic clergy were prohibited to make proselites, or extend their divine service beyond the privileges granted the city; and that in particular they were forbid to perform divine service in the country. The Roman catholics are also permitted free exercise of their religion in Altona, Gluckstad, and Rensborg, under certain restrictions; for instance, not to make processions, or perform any public ceremony out of their church or houses. The Roman catholic inhabitants are also granted free exercise of their religion in the Danish West India islands, by permissions dated September 20th, 1754, and April 30th, 1777. Jesuits, however, are as little permitted to reside here as in any other part of his Majesty's dominions. A special licence, dated June 2d, 1779, for free exercise of the Roman catholic church, at the gun-manufactory belonging to Count Schemmelman, also expressedly excludes jesuits and ex-jesuits.

That the above is a true, literal, and faithful translation of the Danish original laid before me, witness my hand and seal of office.

Copenhagen, January 18th, 1816.

FRED[k] SCHNEIDER.

C.

Apperçu sur l'état des Catholiques, dans les états du Roi de Dannemarc, selon les loix du Pays.

Les loix sevéres contre les Catholiques contenues dans le côde Danois de Chretien V, publié en 1683, ont bien été mitigées par des ordonnances posterieures, mais jamais formellement entièrement rappellées. Elles sont tirées des ordonnances du Roi Chretien IV. du 10 Janvier 1613, et 28 Fevrier 1624, inserées dans le corps de loix du même Roi, nommé le Grand Recés de 1643, ce qui explique la severité de ces loix, car on avoit decouvert sous son regne des trames conduites avec beaucoup d'art, pour rétablir le catholicisme dans le Nord, surtout par plusieurs ecclesiastiques du pays qui se donnoient exterieurement pour des Protestans, quoiqu'ils avoient abjuré cette réligion, et etoient elevés dans la religion catholique au seminaire des Jesuites à Braunsberg en Prusse, et qui secrétement travailloient à repandre le catholicisme dans leur paroisse. Comme après le changement de la forme du gouvernement, le Roi de Dannemarc par la loi fondamentale nommée *lex Regia*, art. 1. est obligé de maintenir la réligion evangelique ou Lutherienne dans toute sa pureté, et de la defendre contre toutes innovations. Toutes ces loix sevéres contre les Catholiques en général, et les Jésuites en particulier, furent conservées.

Il est defendu expressement, par le livre 6, ch. 1. art. 3, du côde de Chretien V, à toute moine, jesuite, ou membre du clergé catholique, sous « peine de mort, de se trouver ou de s'arrêter dans les etáts du roi. Quiconque les connoissent, comme tels leur accorde un domicile, ou leur fournit un local pour exercer leurs ceremonies Romaines, sera puni comme celui qui recèle ceux qui sont declarés hors de loi. »

Le même chapitre (art. 1er) punit toute apostasie à la religion catholique d'exil, et prive l'apostat de tout heri-

tage qui pourroit lui revenir après qu'il a changé de religion, en faveur de ses plus proches parens et heritiers, et ordonne, art. 2, que tous ceux qui ont frequenté des ecoles ou étudié à des lieux, ou les Jesuites sont établis, ne pourront obtenir une place ou dans l'église ou dans les écoles, pour empêcher qu'ils ne repandent par ce moyen des notions favorables à l'eglise Romaine.

L'article 5 du même chapitre accorde cependent « aux envoyés et ministers des puissances étrangeres, qui resident à la cour du Roi, et qui professent une autre religion (que la Lutherienne) d'exercer leur culte dans leur propres maisons, pour eux et leurs propers serviteurs ou domestiques; mais ils sont tenus à ne faire prêcher que dans leur propre langue, et à condition que les prètres de ces ministres s'abstiennent d'administrer les sacremens, ou exercer quelque autre rit religieux, et de prêcher ailleurs que dans le logis du ministre, ou devant d'autres que les ministres étrangers et leurs propres domestiques; et surtout de ne se permettre rien qui puisse tendre au mépris de la religion du pays, ou donner du scandale. S'il arriveroit quelque violation de cette ordonnance, et que le ministre lui même ne la punissoit pas, et n'y remedieroit point, le Roi se reserve d'enforcer l'obeisance de cette loi par d'autres moyens, comme d'autres puissances observent dans leur états dans les mêmes cas.» Le même article défend à tout autre qu'aux ministres étrangers d'exercer un culte étranger dans leurs maisons, et surtout à ceux qui professent la religion du pays, sous peine d'être traités comme ceux qui meprisent la loi.

Les grands services que l'ambassadeur de France le chevalier Hugues de Terlon avoit rendu au Roi Chrétien V, determinerent sa majesté a accorder à ce ministre, par une lettre patente du 26 Septembre 1671, la permission de faire batir une residence dans la ville de Copenhague, avec une eglise ou chapelle, dans laquelle lui et ses successeurs pourroient librement exercer leur culte

catholique, et d'y ajouter un cimetiére; mais l'ambassadeur s'engagoit par des lettres reversales qu'on n'abuseroit pas de cette dispense pour faire des processions ou ceremonies exterieures, selon la coutume de l'eglise catholique, de surveiller que tous les catholiques qui viendront ici, soient attachés avec la dernière fidelité au Roi de Dannemarc; et particulièrement il reconnoit que si ceci donneroit un jour de l'ombrage, il ne lui seroit pas permis de récourir à la protection du roi de France, ou autre prince, comme cette grace avoit été accordée sans leur intercession, mai qu'il dependroit du Roi de Dannemarc de donner les ordres que S. M. jugeroit à-propos pour son service. (Voyez la Collection Danoise de Rescripts du Roi Chrètien V, publiée par le feu general auditeur, C. P. Rothe, à Copenhague, 1776, 8vo. p. 124—128, ou ces lettres reversales se trouvent tout au long en François.) On apprend en les parcourent, que l'ambassadeur pouvoit entretenir des aumoniers jusqu'au nombre de quatre, soit séculièrs soit régulièrs (ou moines), que toute catholique demeurant ici obtint le droit d'assister au culte François, de recevoir les sacremens, de se faire marier par les aumoniers François, mais sus obligation de declarer tout mariage au magistrat de ville. Cette dispense ne fut pas revoquée par les articles cités du côde, selon la regle de jurisprudence, qu'une loi particulière, et surtout un privilége, n'est pas rappellé par une loi générale, tant que ce n'est pas formellement declaré. Il y a eu toujours une chapelle catholique deservie par des aumoniers François, sous la protection du ministre de France, jusqu'à la revolution Françoise.

Après la publication du côde de loix, il parurent plusieurs ordonnances de tems en tems, qui mettent des entraves à la propagation du catholicisme; mais cela n'a pas empêché qu'on n'aie en même tems accordé des privilèges et dispenses en faveur de quelques communautés et individus.

Des rescripts au maitre de police de Copenhague, et à differens magistrats, du 29 Avril 1699, et du 13 Mai 1720, du 15 Mars, et du 19 Juin 1748, et celle du 14 Decembre 1748, au commandant de Copenhague; l'ordonnance pour le reglement de la police, du 29 Oct. 1701, part 2, ch. 1.; l'ordonnance generale du 18 Juin 1745. et surtout celle du 19 Sept. 1766, ont pour but d'empêcher que les mariages mixtes, savoir d'un Catholique avec une femme Protestante, ou vice versa, donnent lieu à ce que le mari ou femme protestante soit persuadé à changer de religion, ou que les enfans soient élevés dans la religion catholique.

Comme l'Ordonnance de 1766 est la plus complète, et la seule des surmentionnées qui est maintenant en force, je me bornerai à donner un extrait de celle-ci.

Le 1[er] article ordonne, que si un prètre catholique reçoit un sujêt Danois de la religion evangelique à la confession, il perdra la liberté de demeurer plus long tems ici; mais tout autre sujet catholique qui le seduit, sera puni de prison une nombre d'années, selon les circonstances.

L'excuse que l'apostat s'est presenté de propre gré ne sera admise.

Art. 2. Les militaires de la religion catholique, qui se presentent chez le curé pour contracter un mariage mixt, seront tenus de donner des lettres reversales, qu'ils ne permettront d'aucune maniere que leurs femmes se fassent catholiques, et pour s'engager de faire élever *leurs enfans dans la religion Lutherienne.*

S'ils n'observent pas cet engagement le chef respectif doit les denonçer. Le magistrat civil observera la même chose, par rapport à ceux qui sont soumis à leur jurisdiction; ceux-ci ne pourront pas non plus contracter un mariage mixt, sans apporter au curé un certificat du magistrat, qui le leur donnera *gratis*, portant que le marige leur à été declaré. Quand des militaires qui vivent

dans des mariages mixtes sont congediés, ils sont tenus de se presenter au magistrat, avec un attestat de leur ancien chèf, qui certifie combien d'enfans ils ont, et que les enfans qui sont parvenus à un certain age (savoir six ans) frequentent une école Lutherienne.

Art. 3. Le prêtre qui benit un tel mariage, l'inserêra dans son protocole, dans un lieu à part, pour pouvoir mieux s'informer si celui des mariés qui est Protestant, continue à communier avec les evangeliques. Le prêtre examinera de telles personnes touchant leur confesseur futur, et leur demeure, pour pouvoir en prévenir, et le prêtre qu'ils choisissent, et le maitre de police, qui le fait savoir au maitre du quartier, pour qu'on sache toujours leur demeure.

Art. 4. Les hôtes des maisons où de tels gens demeurent, doivent surveiller sous peine arbitraire, qu'ils envoyent leurs enfans à une école Lutherienne, et sont obligés de denonçer les parents qui ne l'observent pas au maitre de police, ou magistrat respectif.

Art. 5. Si les deux parents sont catholiques, leurs enfans pourront être élevés dans leur religion; mais il sont tenus de declarer au maitre de police ou magistrat, et s'ils sont militaires, au chèf du regiment, où et de qui ils sont instruits.

Art. 6 et 7. Ordonne que les enfans des mariages mixtes, s'ils etoient au dessous de 17 ans quand l'ordonnance parut, doivent frequenter les écoles Lutheriennes, et être èlèvés dans la religion du pays, si même ils avoient déjà communié chez un père catholique, comme il avoit été enjoint par ordre du 15 Mai 1750.

Art. 8. Ceux qui de l'age de 17 ans et au dessus fussent passés à l'eglise Romaine, sont obligés de se presenter au prêtre de la paroisse ou ils demeurent, pour être instruits de leurs erreurs.

Art. 9. Les militaires et magistrats à Copenhague et dans d'autres villes, sont obligés d'envoyer tous les ans

une liste authentique de tous les catholiques mariés et non-mariés qui y demeurent, et de quelle religion les femmes sont, et combien d'enfans ils ont.

Outre cela l'ordonnance contient quelques dispositions génerales, savoir les suivantes.

Art. 10. Celui qui quitte le royaume pour se faire catholique, ne peut retourner dans les états du roi. S'il seroit revenu, il est tenu a se presenter chez le prêtre Lutherien de sa paroisse, pour être instruit.

Art. 11. Les prêtres des ministres etrangers *ne doivent pas être des Jesuites.* Ils ne doivent pas prêcher, distribuer les sacremens, baptiser les enfans, bénir des mariages ou exercer leur religion ailleurs que dans les *maisons des ministres*, et pas devant d'autres que des catholiques qui sont nés de deux parents catholiques, ou entrés dans le pays comme catholiques. Si un tel prêtre agit contre la teneur de cette loi, il sera après un concert preàlable avec le ministre etranger *envoyé hors du royaume.*

Art. 12. Du reste, tout ce qui est ordonné touchant les catholiques dans les loix et ordonnances précedentes, doit être soigneusement observé des employés du roi, pour qu'ils n'etendent point la liberté de leur culte au dela de ce qui leur à été accordé.

L'ordonnance du 21 Mars 1693 ordonne, que les enfans des catholiques doivent être baptisés dans l'église Lutherienne de la paroisse ou ils demeurent, sous peine de 100 ecus. Ce qui après les ordonnances posterieures doit seulement être entendu des enfans nés dans les mariages mixtes.

Un ordre de la chancellerie, du 7 Oct. 1780, a l'évéque de Ribe, ordonne que si des parents catholiques demandent un baptême public dans une église Lutherienne, et qu'ils ne veulent pas s'obliger de faire élever leurs enfans dans la religion du pays, on ne doit pas le leur ermettre, mais seulement leur accorder de faire bap-

tiser un tel enfant chez eux, et le noter dans le livre ministerial, jusqu'à ce que les parents trouvent occasion de faire confirmer le baptême de l'enfant a tel lieu ou les catholiques ont un libre exercice de leur culte; mais des rescripts d'une date plus recente, savoir du 20 Sept. 1799, à l'évêque de Fiome, et du 17 Janvier 1800 permettent un tel baptême d'enfans catholiques dans une église Lutherienne. Les rescripts du 28 Janvier 1792, au grand bailli et évêque de Christiansand, et 12 May 1798 à l'évêque de Fiome, permettent que les catholiques en cas de decès, peuvent être enterrés dans les églises Lutheriennes, avec les mêmes cere monies que les Protestans. Si on compare les ordonnances avec les dispositions du côde de Chrétien V. il est clair que celui-ci a eté modifié en plusieurs points, car selon les articles du côde il etoit défendu à tout sujêt Danois, quoique catholique, d'assister à tout culte catholique exercé par les aumoniers des ministers étrangèrs, leur mariage ne pouvoit pas être beni d'un prêtre catholique, ils ne pouvoient pas se confesser ou recevoir aucun sacrément des prêtres de leur église: il paroit même, que le legislateur à voulu que les enfans fussent éléves dans la religion evangelique sans exception, quoique les deux parens fussent catholiques; mais la liberté de conscience leur à été generalement accordé, ils peuvent maintenant partout frequenter les églises catholiques dans tous lieux ou ce culte est permis, ils peuvent se faire marier par leurs propre prêtre, si tous les deux parties sont catholiques, à faire elever leurs enfans nés d'un tel mariage dans leur religion, et recevoir les sacremens de leur propres prêtres dans les églises catholiques, ou dans leurs maisons particulières, mais même les loix qui restoient en force n'ont pas été bien strictement observées. Quoiqu'il y a une defense absolue que les aumoniers des eglises ou chapelles ne fussent pas des Jesuites, il y en a en plusieurs surtout à Copenhague et à Friderica, et les

abus dont ils se sont rendus coupables, ont rarement été punis d'après la lettre de nos loix.

Il est permis à un catholique d'acquerir des biens fonds, et même des terres seigneuriales; mais il leur est défendu, comme à tous ceux qui professent une religion étrangère, le droit de *nommer ou presenter des curés à leurs églises, quoisqu'ils fussent des nobles ou personnes privilegies* par ordre du Roi de 28 Sept. 1741. Un rescript du 7 Sept. 1770, leur a aussi ôté le droit de nommer des marguilliers pour les églises à leurs terres.

Il *n'existe pas de loi qui exclut nommement les catholiques des emplois civils ou militaires, mais cette exclusion est pourtant dans l'esprit de la loi.* Il a été accordé aux catholiques domiciliés aux isles Danoises de l'Inde Occidentale, *comme faveur particulière, de pouvoir obtenir des emplois aux isles, excepté les places superieures du gouvernement, ou de commandement militaire, d'où on peut conclure, que d'aprés la loi commune, les catholiques sont exclus de tout emploi.* Cependant il y a plusieurs exemples que des catholiques ont eu des places supérieures dans le pays, surtout dans la carrière militaire, mais il est sans exemple, *qu'ils aient obtenu les premiers emplois civils de l'administration interieure, ou des places dans les tribunaux.* Quoiqu'ils sont à plus forte raison *généralement exclus de tout emploi dans les écoles, lycées, ou à l'université,* il est cependant dit dans la derniere fondation de l'université de Copenhague, du 7 May 1788, ch. 1. & 15, que s'il arriveroit qu'un homme qui par sa connoissance particulière des langues modernes, ou d'une autre sciènce qui ne touche pas à la religion, meriteroit une place de professeur à l'université, s'il professoit une autre religion que celle du pays, le roi se reserve de dispenser de l'obligation, sans cela absolue, pour tout professeur ou maitre à l'université, de donner sa déclaration sous serment qu'il professe la confession d'Augsburg.

Après avoir exposé ce que les loix communes en Dannemarc disposent touchant les catholiques, il reste à eclairer quelles dispenses ou privileges il leur à été accordé de tems en tems par nos rois. Il faut à cet égard distinguer entre les dispenses générales, qui ne sont pas bornées à certain lieu, et particulières. Comme dispenses générales, on ne peut citer que les suivantes.

Ordonnance du 10 Dec. 1698, art. 1, promet à tous les maitres, garçons, fileurs, et teinturiers étrangers, qui se sont etablis ou s'etabliront dans la suite pour travailler à la manufacture de laine, libre exercice de leur réligion et leurs familles partout, dont les catholiques pouvoient aussi profiter.

L'ordonnance du 12 Fevr. 1802, par laquelle les priviléges accordés aux reformés en 1747, paroissent avoir été généralement étendus aux étrangèrs de toute religion, qui veuillent améliorer les fabriques ou manufactures du pays, mais avec cette restriction particulière, qu'ils ne jouiront une immunité personelle des charges publiques que pour 10 ans, au lieu de 20. Comme les privilegès des reformés accordent un libre exercice de leur religion, les catholiques pourroient s'ils sont dans les cas de la loi, reclamer la même liberté, quoique cette ordonnance ne parle pas expressement du culte.

Les dispenses particulières bornèes à certaines villes et certains lieux, accordées aux catholiques, sont celles qui suivent:

DANS LE ROYAUME DE DANNEMARC ET SES COLONIES.

En Siellande.

1. A Copenhague, dans l'église qui à été accordée aux catholiques par une convention avec l'Imperatrice Reine Marie Therése, qui accordoit par réciprocité la

permission d'une chapelle Lutherienne Danoise à Vienne. Cette chapelle [1]) est a présent asservie par deux aumoniers catholiques, sous la protection du ministre d'Autriche. Le service se fait en Allemand. La chapelle catholique Françoise sous protection du ministre de France n'éxiste plus (voyez ci dessus.)

Un rescript du 19 Fev. 1777, a accordé aux sujêts Danois des colonies de l'Inde Occidentale, qui sont de l'eglise Angloise catholique, d'avoir une chapelle catholique à Copenhague, qui peut être deservie par un aumonier exclusivement dans la langue Angloise, à condition qu'il ne soit *ni Jesuite ni Ex-Jesuit*, et que le service se fasse seulement devant les dits sujêts, tant qu'ils sejournent ici, et leurs domestiques, et dans une maison qui appartient, ou est loué par un de ces sujêts. Ils ont aussi obtenu la permission, le 23 Oct. 1777, d'établir dans la capitale une école catholique pour leurs enfans, pour empecher qu'ils ne fussent pas envoyés dorènavant en France, dans la Flandre, ou le Brabant, mais sous condition que d'autres enfans que ceux des sujêts Anglo-catholiques des dits colonies (n') y soient admis, et sous condition que les *maitres ne soient ni Jesuites ou Ex-Jesuites*, et que le prêtre catholique qui a la surveillance et toute la communauté soit responsable de la conduite des maitres.

2. Les ouvriers catholiques à la fabrique de fusils, dite la Hammermöller du conte Schimmelman, près d'Elsineur, ont obtenu par rescript du 2 Juin 1779, la permission d'exercer leur culte. Le service se fait a portes clauses par un prêtre catholique de Copenhague, de tems en tems tant que le nombre des ouvriers catholiques est assez considerable pour former une communauté. Autre-

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1) Voyez les rescripts du 12 Mars 1751, touchant cette chapelle, et du 3 Nov. 1774, qui ordonne, que les charges publiques doivent être rendue de la place qui fût achetée pour une chapelle catholique. —

fois ils assistoient au service de l'aumonier du consul Espagnol à Elsineur.

En Jutlande.

1. A *Fredericia:* Comme tout Chretien obtient par les priviléges de la ville du 11 Mars 1682, §. 21, libre exercice de sa rèligion, les catholiques en profiterent de même. Ils batirent une église qui fut deservie par deux péres Jesuites tant que l'ordre subsistoit, mais comme ils exerçoient leur réligion avec des ceremonies publiques, ce-ci leur fut expressément defendu par rescript du 17 Juin 1707. *Comme les jesuites firent des proselytes, qu'ils envoyoient apres cela hors du pays,* il leur fut en 1745 en pareil cas imposé sous amende de 1,000 ecus de les faire revenire, et il leur fut en même tems declaré, que s'ils se permettroient un nouveau attentat pareil, *la liberté du culte leur seroit ôtée.*

2. Il est accordé aux habitans chretiens qui voudront s'établir dans la ville de *Reikerig* en Islande, par l'ordonnance du 17 Nov. 1786. §. 1. libre exercice de leur culte, quoiqu'il soit different de la religion du pays. Les catholiques pourroient ainsi y exercer leur réligion, mais il n'y en a pas jusqu'ici été question.

Dans les Isles Danoises de St. Croix, St. Thomas, et St. Jean dans l'Inde Occidentale, les catholiques ont obtenu par une concession du 20 Sept. 1754, libre exercice de leur culte, avec le droit de batir autant d'églises qu'il leur plaira, et d'y nommer autant de prêtres et ecclesiastiques qu'ils jugent nécessaires (avec exception de Jesuites qui n'osent pas s'y rendre). Il est après cela ordonné, que tout ecclesiastique catholique doit fournir au gouvernement une copie de leur lettre de vocation, et declarer quelle église ils doivent deservir, et les prêtres catholiques ne peuvent pas remplir leur cure, avant d'envoyer leurs lettres de vocation à la chancellerie Danoise, pour être *Confirmées par le Roi* (rescript du 30 Avril 1777.

Mais il leur est défendu *de faire de proselytes parmi les blancs* ou de persuader les négres qui professent *une* des religions protestantes, ou parmi ceux qui sont reçus des frères Moraves, de passer à leur réligion; aucun catholique qui posséde des négres ne peut les empêcher de frequenter les églises protestantes, ou la communauté de frères Moraves tant, qu'ils ne sont pas baptisés catholiques.

Les catholiques ont une église à Tranquebar, sur la côte de Coromandel, aux Indes Orientales, depuis le 16me siècle et une autre à Poreirie, un grand village dans le territoire de la dite ville; des missionaires catholiques tachent de repandre leur réligion parmi les Indiens, mais ils sont surpassés par le zèle des missionaires Protestans éléves au fameux paedagogium de Halle en Allemagne.

Aux Duchés de Sleswig et de Holstein.

Il y a dans les duchés en génerale pleine liberté de conscience, et tous ceux qui sont poursuivis pour la réligion ailleurs, y sont reçus et protegés comme les autres sujêts, pourvû qu'ils vivent tranquillement, et ne donnent aucun scandale (voyez l'ordonnance commune du 14 Dec. 1623, inserée dans le Corpus Const. Slesv. et Hols. I. p. 245). Mais les catholiques n'ont cependant pas le droit d'exercer leur culte dans des églises ou chapelles, ou de former des rassemblements religieux excepté dans certaines villes ou lieux qui y sont formellement auctorisés par des priviléges, savoir.

En Sleswig.

1. L'isle de *Nordstrand*, ou les catholiques de la secte dite Janseniste n'ont pas seulement libre exercice de leur religion, mais aussi le *jus patronatus* de leurs églises et fondation réligieuses, ou écoles, selon une octroi du $\frac{8}{17}$ Juillet 1652, et ont conservé tous ces droits, quand ils passoient *sous la domination* du roi de Dannemarc, par la cession entière du duché de Sleswick. Les Catho-

liques de l'église orthodoxe ailleurs dominante, ne *sont que tolerés* dans cette isle. Les pères d'oratoire de Louvain et de Maline travailloient pour que les catholiques orthodoxes eussent une église publique en lieu d'une petite chapelle, qu'ils ont maintenant à Nordstrand, ou le droit de nommer un prêtre à l'église Janseniste, qui en a deux, et eut entamoient même un procés, mais ils le perdirent en 1744, et ayant supplié que cette sentence fut renversée, elle fut au contraire confirmée par le roi.

2. Dans la ville de Friedrichstadt les catholiques ont obtenu le libre exercice de leur réligion depuis le 24 Fev. 1625, quoique d'après les paroles de la concession, les prêtres ne peuvent exercer leur culte hors de l'enceinte de la ville, il leur à été accordé d'administrer les sacrémens aux habitans catholiques de la vilie de Sleswig ou ses environs, dans leurs maisons, dans des cas urgens, par une resolution royale du 14 May 1726.

En Holstein.

1. A *Altona* les catholiques ont obtenu du roi Frederic III, le 16 May 1658, le premier privilege d'un libre exercice de leur réligion, seulement *avec exception des grandes ceremonies et processions.* Ils obtinrent en même tems la permission de batir une église, qui fut en 1678 exempte de tout impôt, et d'arranger librement un cimetière pour leurs morts. On leur a même accordé 17 Dec. 1736, le droit de faire venir leurs prêtres ou ecclesiastiques d'un lieu quelconque, et de ne point mettre des entraves à leur liaison d'obedience avec leur provençale ou superieur. Enfin ils ont obtenu le 28 Mars 1757, la permission que si un catholique veut se marier avec une personne protestante, il peut faire benir le mariage par un prêtre catholique, si tous les deux sont d'accord, quoique cela soit sans cela défendu.

2. A Gluckstadt toutes les réligions furent permises par le privilege de la ville, du 1662, § 1; mais ce n'est

que dans l'année 1702, que l'exercice de la religion catholique est devenu public; alors ils obtinrent aussi le droit d'arranger un cimetière. Les ecclesiastiques n'osent exercer leur culte hors de l'église.

3. A *Rensbourg* le culte catholique est plus limité que dans les villes ci-dessus nommées, car l'exercice public de la réligion est expressément reservé aux Lutheriens (Corpus Const. 3. p. 987). Une resolution royale du 9 Oct. 1709, permettoit premièrement au prêtre catholique de Glückstadt de s'y rendre de tems en tems pour célébrer leur culte, mais tout tranquillement et *sans cérémonies publiques;* mais en 1757 il fut accordé aux catholiques de la ville d'avoir un prêtre seculier constamment chez eux, dont le pouvoir fut très limité par une instruction particulière.

On trouve dans les ouvrages suivans plusieurs details sur le culte catholique dans les duchés de Sleswick et Holstein:

Mathiæ, Kirchenverfassung der Herzogthümer Schleswig und Holstein, erster Theil, Flensburg, 1788, S. 516.

Schroeders Handbuch der vaterländischen Rechte in den Herzogthümern Schleswig und Holstein, Theil I, Altona, 1784, S. 191—198.

Un ouvrage de M. Gregoire, ancien évêque de Blois: les Ruines de Port Royal des Champs en 1809, nouv. ed. revue et augmentée, contient plusieurs details curieux sur les Jansenistes à Nordstrand.

Schlegel,

Conseiller de Conference, et Chevalier de l'ordre du Dannebrog, Docteur et premier Professeur ord. en droit à l'Université de Copenhague, Assesseur Extraord. à la Haute Justice, Membre de l'Academie Royale des Sciences à Copenhague à Drontheim.

A Copenhague, ce 8 Janvier 1816.

N.º X.

A.

Edict of the King of Sweden, relative to the free exercice of Religion; dated January 24th, 1781.

Seiner Königl. Majest. gnädige Kundmachung, wegen einiger diejenige Religions Freiheit betreffenden Umstände, welche, nach Anleitung des 7 §, in dem von den Ständen des Reiches Schweden, auf dem allgemeinen, am 26. Januarius 1779, geschlossenen Reichstage, gemachten, genehmigten und verabscheideten Beschluße bewilliget ist. Gegeben Stockholm, im Schlosse, den 24 Januarius 1781. Cum Gratia et Privilegio Sacrae Regiae Majestatis. Stockholm gedruckt in der Königl. Buchdruckerey.

Wir Gustav, von Gottes Gnade, der Schweden, Gothen und Wenden König. ꝛc ꝛc. ꝛc. Erbe zu Norwegen, auch Herzog zu Schleßwig-Holstein, ꝛc ꝛc Thun kund und zu wissen; nachdem Wir, von Unserm ersten zutritt an zu dem Throne Unserer Väter, allezeit sorgfältig gewesen sind, nebst beybehaltung der reinheit Unserer religion, das licht des Evangeliums mittels solcher verfassungen auszubreiten, die unter Gottes milden gnade und segen auf ein mal den wahren Dienst desselben vermehren, und die zeitliche Wohlfarth Unserer getreuen unterthanen befördern können, haben Wir auch allezeit eine freie religionsübung für den sichersten ausweg, so wichtige Zwecke zu gewinnen, angesehen. Wir sind darzu durch die ehehin von fremdlingen genossene erlaubniß, unter einem Volcke, das von dem höchsten gesetzgeber unmittelbar seine gesetze empfangen hatte, zu wohnen, aufgemuntert worden, und wenn ein in diesem lande lange erkannter und bedauerter volckmangel den handel und wandel, zur nothwendigen weite und vollkommenheit zu gelangen, gehindert hat, so hat sichs zu gleich gezeiget, wie angelegen es sey, zu suchen, daß so wohl die anzahl der einwohner des reiches, als auch desselben geld verkehr vermehret werde. Solche vortheile sind bereits denen wohlbestellten staten zugegangen, in welchen die gewissensfreiheit, zur ehre der menschlichkeit, beynahe öffentlich eingeführet worden, und Wir rechnen eben-

fals selber mit vergnügen unter wohlbehaltenen und redlichen unterthanen in allen ständen, nachkommen von solchen verwandten einer fremden religion, die ihres glaubensbekänntnisses wegen, aus dem lande ihrer väter vertrieben, hier sind aufgenommen worden, und theils ihr ansehnliches vermögen ins land eingeführet, theils auch mit ihren kundschaften eine der nützlichsten nahrungen des reiches verbessert haben. Wir sind genugsam versichert, daß Unsere glorwürdigste vorfahren, Schwedens ehemalige große Könige, ihre aufmerksamkeit zu diesem Gegenstande gestrecket haben; wenn aber der König Gustav I., beschäftiget, unter andern wichtigen gewerben, eben mit ausrottung des wahn- und aberglaubens, gefunden hat, daß die von ihm selber ins reich eingefürte Evangelische lehre, ihrer beibehaltung und zuwachses wegen, keine andere religionsübungen zuließe unter einem volcke, das in der finsterniß der unwissenheit gewickelt, neulich die Himmlischen Warheiten, vielleicht mehr aus gehorsam, als aus überzeugung, angenommen hatte, und das, ohne eigene Beurtheilung, seinen vorigen gebräuchen und gewohnheiten ergeben, leichtlich hätte wiederum verleitet werden können, besonders unter derjenigen zeit, welcher die lehrer desselben, zu ihrer eigenen unterweisung, nothwendig bedurften: Und, wenn der König Gustav Adolph, welcher sein theures leben, unter einem von ihm im namen der religion angefangenen kriege, aufopferte, seine absichten auszufüren, nicht vermogt hat; so haben Wir dagegen Uns im stande gefunden, dieses erhebliche geschäft vorzunehmen unter einer lieblichen friedensstille, nach einer glücklichen vereinigung getrenneter gemüther, da zugleich in einem, durch wissenschaften aufgeklärten zeitpunkte, die religion in den hertzen Schwedischer männer vollkommen befestiget ist, und Wir sowohl zu dem eifer, als auch zu den gelehrten einsichten und aufmerksamkeit Unserer priesterschaft, das vollkommenste gnädige vertrauen tragen können. Für Uns hat demnach keine andere bedenklichkeit rückständig seyn können, als diejenige, welche, unter einem zeitlichen absehen auf die geben-

kens-arth und Beurtheilung Unserer getreuen unterthanen entstanden ist. Je lieber Wir Uns hierin nach ihrem wunsche haben lenken wollen, je angenehmer ist es Uns folglich gewesen, unter dem jüngsten reichstage, von den dazumahl versammelten ständen des reiches eine unterthänige proposition über diesen gegenstand zu empfangen. Wir erkläreten Uns zwar sofort, dieses unterthänige anrathen der stände, unter den dabei ausgezeichneten bedingungen, nebst demjenigen zulegen, das Wir Selber nöthig fünden, mit vergnügen anzunehmen, und Unser gnädiger beifall ist auch in dem reichstags beschlusse eingenommen worden. Was aber die vollziehung desselben betrifft, haben Wir nicht umhin können, ferner festzustellen und zu verordnen:

Wir wollen daher hiermit, und durch diese Unsere offene Brief und Geboth, zur nachricht aller denen es gebühret, so in- als ausserhalb reiches, öffentlich kundmachen und zu erkennen geben, daß Wir in Unserem reiche mit den darunter belegnen provinzen, unter einer freien und ungezwungenen religionsübung eine vollkommene gewissens freiheit erlaubet haben. Wir versichern zugleich, daß die von fremden religionen, welche sich hier im reiche entweder niedergelassen haben, oder künfftighin niederlassen, nicht allein ihre religions freiheit, auf art und weise, auch mit bedingungen, als darum nun festgestellet wird, geniessen, sondern gleichfalls allezeit in Unseren und Unserer nachfolger königlichen schirm und schutz eingeschlossen seyn, auch diejenige sicherheit für leben und eigenthum, welche Unsern eigenen unterthanen, nach Schwedens gesetzen, zukömmt, haben sollen.

Die reichsstände haben sich in unterthänigkeit vorbehalten.

1. Daß die von fremder religion, welche hier ins reich ziehen wollen, um hieselbst wohnhaft zu werden, unter keinerley vorwand zu des reiches höheren oder geringeren ämtern und diensten angenommen werden mögen.

2. Daß dieselben an keinem orte im reiche öffentliche schulhäuser oder unterweisungsstellen, zur erweiterung ihrer lehre, einrichten mögen.

3. Daß ihnen, in solcher rücksicht, nicht zugelassen werden möge, missionairen in- oder ausser dem reiche anzunehmen oder abzusenden.

4. Daß keine klöster eingerichtet, noch mönche zugelassen oder admittiret werden, von welcher religion und secte selbige auch seyn mögten.

5. Daß Juden nicht erlaubet werden möge, ihre synagoge an mehrern orthen im reiche zu haben, als in Stockholm, und höchst zwo oder drey andern größern städten, allwo dieselben unter einer bessern police, und einem mehr wachsamen einsehen seyn können.

6. Daß denen von fremder religion, die bey ihnen üblichen öffentlichen processionen und ceremonien verbothen werden mögen, zur verhütung verfürender anleitungen zu irrthum und ärgerniß unter den einfältigern.

7. Daß die vorschrift des 1 capitels, 3 §. im gesetze von missethaten, um denjenigen, der von Unserer wahren Evangelischen lehre abfällt, und zu einer irrigen übertritt, auf das genaueste gehandhabet werden möge.

8. Daß keiner von fremder lehre ein reichstagsmanns recht geniessen möge.

Diese bedingungen sind zwar von Uns bereits genehmiget worden; Wir achten aber nichts destoweniger für nöthig, solche hiemit weiter zu bestätigen, nebst dem, was Wir dazumal sofort der Druckfreiheit wegen, erkläret haben, daß diese nicht zu solchen büchern gestrecket werde, die entweder fremde religionssätze vertheidigen, oder in einiger masse wieder die theuren grundwahrheiten Unserer reinen religion streiten, und mittels Dessen eine weniger erleuchtete gemeine unschlüssig machen können. Ohnehin wollen Wir ebenfalls hiermit feststellen, daß derjenige von fremden religions-verwandten, welcher

1. Von Unserem glaubens bekänntnisse, Unserem gottesdienste, Unseren kirchen verfassungen, ceremonien und lehrstande verkleinerlich redet, büße von zehen biß fünfzig thaler silbermünze, nach beschaffenheit des verbrechens: geschiehet es zum andern male; büße doppelt.

2. Derjenige, welcher einem seine religions-sätze anpreiset, oder seine legenden ausstreuet, büsse das erste mal ein hundert thaler silbermünze, und zum andern mal zweifach.

3. Zwinget ein hausvater oder vorgesetzter den, welcher unter seinem gehorsam stehet, aber zur Lutherschen versamlung gehöret, öffentlichen oder besondern andachtsübungen fremder religionsverwandten beizuwohnen, oder daran theil zu nehmen; so soll ein solcher zu der geldstraffe von zwey hundert thaler silbermünze verfallen seyn, und der diener, sofort aus dem Dienste zu gehen, freiheit haben, ihm auch der daraus entstehende schade von dem hausvater ersetzet werden. Locket jemand andere zum theilnehmen an fremder andachtsübung, und zum abfall von der Lutherschen lehre; so büsset derselbe ebenfalls zwey hundert thaler silbermünze: lässet sich derselbe dadurch nicht bessern, so sey er des vortheils, sich hier im reiche aufzuhalten, verlustig.

Dagegen wollen Wir ihnen, für nun und zukünfftige zeiten, in gnaden bewilligen:

1. Wie oben gemeldet ist, alle mitbürgerliche freiheiten und gerechtsamen zu geniessen, nur diejenigen ausgenommen, in des reiches ämtern und diensten, oder als reichstagsmänner, gebraucht zu werden; welcher vortheil doch ihren kindern, so bald als diese zur Lutherschen versammlung übergehen, nicht versaget werden soll.

2. Sich eigene kirchen zu bauen, auf die weise gleichwohl, als Unsere gnädige verordnung von öffentlichen gebäuden unterm 31 Julii 1776, enthält, daß nämlich, die entworfenen abrisse und kostenvorschläge, nachdem dieselben von Unserm Oberhof intendenten-amte übersehen und geprüfet worden, zu Unserm gnädigen gutheissen und bestätigung angemeldet werden, als ohne welche weder eine neue baute, noch eine grössere reparation vorgenommen werden darf.

3. Ihre kirchen mit klocken und eigenen begräbnißplätzen zu versehen.

4. Zu ihren versammlungen ordentlige eigene lehrer ihrer religion zu berufen.

5. Daß, wenn die eltern von einer und derselben religion sind, die kinder von ihren priestern, und mit ihren ceremonien getauffet, auch in derselben religion auferzogen werden mögen.

6. Daß sie, bey priesterl. einsegnungen der brautleute, da keiner der beiden contrahenten Luthersch ist, dieselbe freiheit geniessen, wenn nur drey abkündigungen von den kanzeln, nach Schwedens gesetz, vorausgegangen.

7. Daß sie gleichfalls, nach ihrer weise den feyerlichen kirchgang, und begräbnisse verrichten mögen.

In ansehung mehr gedachter, von den reichsständen vorgeschlagenen, und von Uns in gnaden gebilligten bedingungen, haben Wir, zur vermeidung der zwistigkeiten und ungewißheit, in gnaden für nöthig geprüfet, solchergestalt zu erklären:

1. Daß, ob fremde religions-verwandte wohl keines weges öffentliche schulhäuser oder unterweisungsstellen einrichten dürffen, ihnen dennoch ihre eigene kinder, bei ihren ordentlichen lehrern, oder andern privaten personen unterweisen zu lassen, nicht benommen sey.

2. Daß das verboth wider die annehm- und absendung der missionairen, in oder außerhalb reiches, welches, da es solche anstalten angehet, die auf ausbreitung ihrer religion, oder auf gelegenheiten, proselyten zu machen, abzielen, mit äußerster strenge gehandhabet werden muß; dagegen ihre lehrer nicht hindern möge, auf erhaltenen beruf, ihre eigene religionsverwandte an solchen orthen im reiche, wo sie keine eingerichtete kirchen und versammlungen haben, zu besuchen, auch dieselben mit kindtaufen communion, einsegnung der brautleute, bey dem kirchgange und begräbnissen, nach ihrer weise zu bedienen

3. Daß das verboth wider öffentliche processionen und ceremonien sich einzig und allein zu öffentlichen plätzen, märckten und strassen strecke; keines weges aber zur einweih-

ung ihrer kirchen, kirchhöfe und klocken, noch zu einer ihrer ceremonien, die innerhalb verschlossenen pforten der kirchen und kirchhöfe verrichtet werden kann, und

4. Anlangend ihr reichstagsmanns-recht, ist es den reichsständen nicht beigefallen, daß die reformirten solches bereits, nach Anleitung der kundmachung vom 27 August 1741. genossen haben, nach welcher Anleitung dieselben dabei auch künfftighin nothwendig beibehalten werden müssen; da aber dem unterthänigen anrathen der reichsstände gemäß, alle andere fremde davon ausgeschlossen werden; so prüfen Wir, daß selbigen als mitgliedern des stats, obgleich nicht der versammlung, keinesweges das theilnehmen an der reichstagsmanns-wahl abgesprochen werden könne, weil unter der freiheit der gegenwärtigen regierungs-arth, ein jeder binnen der stände, welche zu den reichs versammlungen gevollmächtigte senden, eine so bedeutende gerechtsame, ohne eindrang zu guthe genießen muß.

Uebrigens werden Unsere unterthanen ernstlich gewarnet, fremden religionsverwandten einen freien zutritt zu Unseren öffentligen gottesdienst nicht zu versagen, bey der strafe von zehen thaler silbermünze. Für erregtes ärgerniß bei ihrem gottesdienst, büsse der schuldige fünf und zwanzig thaler silbermünze. Wird der friede, der einem jeden zu- und von- auch unter dem öffentlichen gottesdienst zustehet, gebrochen, so erfolge die strafe welche das 18 capitel des gesetzes von missethaten für diese fälle bestimmet. Wer ihre besondere meinungen und heilige gebräuche schmälert, der büsse, nach beschaffenheit des verbrechens und der Umstände, zehen biß fünfzig thaler silbermünze, welche strafgelder das andere mal verdoppelt werden; mit gleicher strafe ist auch derjenige zu belegen, welcher in zusammenkünften fremder religions zwistigkeiten angreifet.

Bei dieser gelegenheit haben Wir uns ebenfalls die, nach der Reformation, der religion wegen, ausgekommenen königl. versicherungen, verfassungen, briefe und verordnungen, wie auch die gemachten vereinigungen und beschlüße der reichs-

stände vortragen lassen; und, da Wir darunter einige gefunden, die wieder eine freie religions=übung gänzlich streiten; so erklären Wir alle solche, die mit diesem Unsern auf dem unterthänigen anrathen der reichs=stände gegründeten beschluße nicht vereiniget werden können, hierdurch, ihrer kraft und wirkung nach, für gäntzlich aufgehoben.

Wir erkennen ungezwungen, daß es schwer sey, alle die ereigniße, wozu diese verfassung anleitung geben kann, voraus sehen zu können, imgleichen daß es unmöglich falle, für jede derselben etwas insonderheit vestzustellen; da Wir aber in dem vorhergehenden deutlich an den tag geleget, wie Unsere absicht gewesen und nun sey, fremden religionsverwandten alle die freiheit einzuräumen, welche ohne schaden für Unsere wahre religion, ohne änderung in des reiches gesetzen, und ohne einigen nachtheil für unsere eigene unterthanen, möglich hat bewilliget werden können, und, da Wir, auf solchem grund, um einige derselben hier unten verordnet haben, so vermuthen Wir auch, daß die übrigen, unter anwendung desselben, sich leichtlich abhelfen lassen.

Die ehen, so zwischen personen ungleicher religion eingegangen werden können, haben zuerst Unsere aufmerksamkeit auf sich gezogen. Was das kirchengesetz im 15 cap. 8 §. wegen der schuldigkeit der priesterschaft, solche ehen fleißig abzurathen, feststellet, das mag derselben auch künftighin obliegen, obgleich die erfarung oft gezeiget hat, daß solches vergebens sey: die frage, in welcher Religion die Kinder auferzogen werden müssen? sehen Wir für die wichtige an.

Was die Reformirten betrift, ist bereits, durch den Königl. Brief von 21 Augusti 1765, festgestellet, daß, wenn der mann Luthersch ist, und das weib Reformirt, die kinder unwillkührlich in der Lutherschen lehre auferzogen werden; wenn aber der mann Reformirt, und das weib Luthersch alsdenn vor priesterlicher einsegnung der ehe, mittels eines im consistorium getroffenen vergleiches zu bestimmen sey, in welcher dieser beiden religionen die kinder auferzogen werden sollen, und falls dieses nicht geschehen, der vater die freiheit habe,

seine kinder in der religion, zu welcher er sich bekennt, zu auferziehen. Wir haben auch diese freiheit nun nicht einschränken, sondern darin nur diese veränderung machen wollen, daß gedachter vergleich nicht im consistorium, sondern zu Stockholm in dem ober stathalter- und in den landschaften in den lands-hauptmanns-ämtern aufgezeiget werde.

Da Wir auch gefunden haben, daß vorschriften anderer arth, in ansehung solcher ehen mit Griechen, Katholiken oder andern religionsverwandten, die sich auf keine bereits gegebene zusagen zu berufen haben, nicht, ohne sonderbarer zwang, statt finden können: So wollen Wir, eben in allen fällen, es auf die weise, als in oberwänter masse, der Reformirten wegen, gesaget ist, verbleiben lassen.

Ordentliche über diesen gegenstand, vor vollzogener ehe, eingegangene und in den protokollen der ober stathalter- und lands-hauptmanns-ämter eingenommene heirathsabhandlungen werden das dienlichste mittel, allen zwistigkeiten zuvorzukommen, und lieget es daher der priesterschaft ob, vor der ausgabe der abkündigung, solche kontrakte, so viel möglich ist, und in der güte geschehen kann, zu veranlassen und zu befördern.

Uneheliche kinder, die öffentliche unterstützung geniessen, werden, ohne rücksicht auf die Mutter, in der Lutherschen lehre auferzogen.

Weniger erheblich haben Wir gefunden, wer bey dergleichen heirathen, von welchen nun die frage ist, die copulation verrichten soll; um aber allen irrungen zuvorzukommen, haben Wir dabei die bisher üblich gewesene weise angemessen zu seyn geprüft, daß die copulation mit den binnen der versammlung beider contrahenten gebräuchlichen ceremonien verrichtet werde; doch bei besonderen gelegenheiten.

Die fremden religions verwandten, welche sich in den landschaften zu so geringer anzahl niedersetzen, daß sie keine versammlung ausmachen, noch eigene priester unterhalten können, müssen sich und ihre hausgenossen, ihren geburthsort, ihr alter, nebst einem zeugnisse um ihren wandel, ohnfehlbar bei

demjenigen landshauptmann anmelden, welchem die landschaft, darin sie zu wohnen und zu hause zu seyn gedenken, in gnaden anvertrauet ist.

Die Luthersche priesterschaft muß ihnen ihren amtsdienst, in keinem theile, und bei vermeidung harter verantworthung, aufdringen, sondern diese ihre freiheit, sich von andern orthen priester ihrer religion zu den in ihren häusern vorfallenden verrichtungen zu verschaffen, unangetastet lassen; dagegen müssen Unsere Luthersche priester, auf freiwilliges anmuthen, die einsegnung derer brautleute, nach richtigen beweisen vorausgegangener abkündigung, imgleichen die begräbnisse derer, die von fremder religion sind, verrichten, ohne einige andere veränderung der formeln des Schwedischen handbuches, als derjenigen wörter, welche die umstände bei jeder gelegenheit genugsam ausmercken.

Um eine zuverlässige vollständigkeit in dem tabellwerke zu gewinnen, müssen die stadt-obrigkeiten und die kron-vögde auf dem lande ein genaues verzeichniß über alle die priesterlichen einsegnungen von brautleuten, entbindungen von kindern, und sterbfälle halten, welche sich in ihren districten bey fremden religionsverwandten ereignen, wenn diese an einem orthe, wo sie keine eigene versammlung, folglich keine eigene tabellen haben, sich entweder eigener oder Luthersche priester bedienen. Gedachte verzeichnisse werden bei dem schlusse jedes jahres, an eines jeden solchen orthslandshauptmann eingesandt, der solche verzeichnisse darnach an die gehörigen consistorien um dieselben bei verfassung der tabellen in achtnehmen zu lassen, überliefert.

Würden fremde glaubensverwandte, unter einer zugestossenen krankheit, selber den besuch der Lutherschen priesterschaft verlangen, so mag solcher nicht versaget werden; in dergleichen fällen aber müssen den kranken einzig und allein die gnade der versönung und rechtfertigung, auf eine Evangelische weise vorgehalten, und ihre gemüther nicht beunruhiget, noch ihr gewissen mit einigen religionsstreitigkeiten und controversen belästiget werden.

Anständige ruhestellen auf kirchhöfen, oder andern öffentlichen begräbnißplätzen müssen alle von der Christen religion, künftighin so wohl als bis hieher, für ihre todte genießen; und mögen sie eben, gegen gewönliche bezahlung an die kirchen, klocken bei ihren begräbnissen, ohne unterscheid, ob letztere von Lutherschen oder ihren eigenen priestern verrichtet werden, gebrauchen können.

Das forum für religions processe sind immerfort Unsere und des reichs hofgerichte.

Wenn sich solche umstände aufgeben, wodurch die fremden unvermeidlich veranlasset werden, vor einem consistorium zu erscheinen; so haben dieselben das recht, aus dem fiskalsamte einen zu begehren, der dorten, bei den vornehmen und abthun ihrer sachen zugegen sey.

Das verboth für unsere Luthersche unterthanen, fremden gottesdiensten beizuwohnen, haben Wir nicht aufheben können, weil niemand aus neugier, um den gottesdienst anderer zu sehen, seinen eigenen versäumen muß, sondern es büsse der, so dieses thut, zehen thaler silbermünze, den umständen gemäß.

Die fremden religionsverwandten sollen auch bey ihrem gottesdienste keine andere, als die, welche von ihrem glaubensbekenntnisse sind, einlassen.

Von allem was hierin festgestellet und verordnet ist, findet nichts einige anwendung, in rücksicht auf die Juden. Wir lassen für diese ein besonderes handsreglement ausfertigen, darin eben die bedingungen der ihnen verliehenen religionsfreiheit werden bestimmet und erkläret werden.

Wir befehlen nun hiemit dem oberstathalter zu Stockholm, und Unseren befehlhabenden in den landschaften an durch die behörde eine wachsame aufsicht über die vollziehung dieses Unsers gnädigen geboths zu haben, allen mißbräuchen zu steuren, und zeitig zu erkennen zu geben, wenn dergleichen verspüret wird. Gleichwie auch dieselben nicht weniger, als ein jeder richter und executor, die fremden religionsverwandten zum genusse alles dessen, was ihnen mit recht zukömmt, ohnverzüglich befördern, und in allen, zwischen ihnen unter sich

selber, auch zwischen ihnen und Unseren Lutherschen unterthanen entstehenden streitigkeiten und rechtsgängen, ohne aufschub, rechten und verfassungen gemäß, urtheilen müssen.

Wir tragen ebenfalls zu allen bischöfen und consistorien das gnädige vertrauen, daß dieselben mit der treue, welche sie Uns und dem reiche schuldig sind, und mit der zärtlichkeit, welche ihre eigene gewissen von ihnen fordern, über die aufführung der unter ihrem einsehen stehenden priesterschaft, wachen, daß diese die ihr anvertrauete seelsorge in keinem stücke versäume; sich aber auch gar nicht mit solchen sachen befasse, die zu ihrer obsorge nicht gehören.

Schließlich wünschen Wir von treuem hertzen, es wolle der Höchste Gott gnädiglich seinen milden segen zu diesen verfassungen geben, daß selbige Unsere absicht erfüllen, und eben in dem theile die allgemeine wohlfarth fördern, daß selbige das falsche und bittre ersticken; einen rechtschaffenen eifer aber um die ehre Gottes, und die von einer wahren gottesfurcht und menschenliebe unzertrennligen tugenden rege und lebendig machen mögen.

Wornach sich alle, denen es gebüret, gehorsamlich zu richten haben. Urkundlich haben Wir dieses mit eigner hand unterschrieben, und mit Unserem königl. insiegel bekräftigen lassen.

Stockholm im Schloße, den 24 Januarius 1781.

Gustav.

(L. S.)

Joh. v. Heland.

B.

Sur l'état de la religion catholique en Suède. — Par M. Gridens. Vicar Apostolique à Stockholm.

La religion catholique, apportée en Suède dans le neuviéme fiècle, en a été proscrite dans le seizième, pour faire place à la reformation Lutherienne, qui a été déclarée la religion de l'état. Il ne fut permis à personne de professer l'ancien culte. Seulement les ambassadeurs ou ministres des courts catholiques eurent la liberté d'emmener avec eux des prêtres de leur religion pour eux et pour les personnes attachées à leur légation. Ce fut par le moyen de ces aumoniers qu'une etincelle du catholicisme a été conservée en Suède dans le 17° siècle. Il étoit dangereux pour tout autre prêtre de s'y introduire. Vers le milieu du 18° siècle, les Suèdois sont devenus plus tolérans; le gouvernement fit venir d'Allemagne et d'autres pays, pour travailler aux fabriques de draps et d'étoffes de soie, une quantité d'ouvriers intelligens la pluspart catholiques, auxquels on promit verbalement la liberté de leur religion. Les chapelles alors existantes pour le culte catholique, étoient celles de France, d'Empire et d'Espagne.

Alors vivoit un homme dont la memoire sera toujours en vénération, Christophe Theodore d'Antivari, ministre de l'empereur d'Allemagne près la cour de Suède; il fit des établissemens utiles, en fondant quatre lits à l'hôpital royal pour les malades de la religion catholique, et en donnant des fonds pour l'entretien d'un prêtre. Il mourut en 1763. Mais ayant laissé ces fonds à l'administration de ses successeurs, l'un d'eux les dissipa entièrement. L'établissement de l'hôpital existe encore.

Ce furent les etâts généraux de 1778, qui les premiers depuis la reformation, autoriserent l'exercice de la religion catholique, non pour les Suèdois, mais pour les étrangers. En conséquence le roi Gustave III. *rendit en* 1781, *le décret de tolerance qui fixe les privileges de la religion catholique en Suède.*

Ce décrêt permet aux catholiques de se bâtir des *eglises, d'avoir des cloches et des cimetieres, de faire élever leurs enfans dans la religion des pères, d'exercer publiquement les cérémonies de leur culte dans l'intérieur de leurs eglises, de se procurer des pasteurs qui sont autorisés à faire leurs baptêmes, mariages, et enterremens, et d'en délivrer des certificats.*

Par suit de ce décrêt il a été érigée à Stockholm en 1784, une paroisse catholique, du consentement du roi Gustave III. et avec l'agrément du Pape Pie VI. qui avoit envoyé à Stockholm un prêtre avec le titre de vicaire apostolique en Suède.

La congrégation de la Propagande à Rome s'est chargé de fournir seule aux frais d'un culte dont elle vit, avec joie, le retablissement en *Suède.* La nouvelle paroisse s'est consolidée. Les catholiques fréquenterent avec zèle une eglise, qui les réunissoit sous un même pasteur.

Quelques années après, les chapelles *des legations* de *France, d'Empire,* et *d'Espagne,* se sont fermés successivement. Les cours catholiques ont cessé d'y envoyer et d'y entretenir des aumôniers.

Les catholiques qui resident tant à Stockholm, que dans l'intérieur, et les villes considérables de la Suède, sont au nombre de mille, ou environ. On en compte *dans la paroisse de Stockholm sept à huit cens.* Ce sont des Allemans et des descendans d'Allemans, venus pour travailler aux fabriques de draps, d'étoffes de soye, et aux verreries; des François que les arts ont conduits en Suède, ou qui sont venus à la suite de quelques ministres ou autres seigneurs, et s'y sont fixés; des Italiens venus pour y faire le commerce. Il s'en trouve de presque toutes les nations.

Cette paroisse est en général très pauvre; si dans le nombre il y a quelques personnes en état de faire des aumônes, on les employe au soulagement des pauvres, des malades, et surtout d'une maison particulière destinée à y elever de pauvres enfans.

Les catholiques n'ont point d'église en propre à Stockholm, parcequ'ils manquent de fonds suffisans pour batir ou s'achèter une maison convenable. On fait le service divin dans une grande salle que la ville leur a loué et qui a été décorée à cet effêt, aux dépens de la propagande. Le vicaire apostolique étoit au commencement secondé dans ses fonctions par un autre prêtre, et Rome fournissoit à leur subsistance.

Le nombre des catholiques repandus dans l'intérieur de la Suède, est assez considérable pour nécessiter la présence d'un prêtre, et l'établissement d'une chapelle dans quelque ville considérable, par exemple, Gothembourg, où le commerce a de tout tems attiré des étrangers du culte catholique, dont les uns s'y fixent, et les autres y séjournent pour un temps. Louis XVI. avoit destiné des fonds pour un établissement aussi religieux; mais on connoit les circonstances qui ne lui permirent pas d'exécuter ses pieux desseins.

La tolérance introduite en Suède n'autorise point les catholiques à parvenir aux charges civiles. Ils en sont exclus. Mais des loix postérieures leur ouvrent le chemin des avancemens militaires, surtout s'ils ont des talens distingués. Il est strictement défendu aux Suèdois, qui sont tous Luthériens, de revenir à la religion primitive de leurs pères. La loi favorise au contraire le passage du catholicisme à la religion Lutherienne.

C'est le Pape qui nomme les vicaires apostoliques en Suède, et le Roi les autorise par un espêce de diplôme à exercer leurs fonctions dans toute l'étendue du royaume, en se conformant au décrêt de tolerance.

Il ne se trouve maintenant à la tête de l'église catholique en Suède, *qu'un seul prêtre*, établi en 1805, *par le Pape Pie VII. avec titre de vicaire apostolique*, pour y remplir les fonctions du ministére ecclesiastique envers ceux qui sont à Stockholm, et ceux qui habitent dans les différentes villes de Suède. Il en faudroit trois, ou au moins deux

constamment; alors ils pourroient alternativement et dans certains temps de l'année aller visiter les catholiques de l'intérieur, et leur administrer les secours de la religion. La congregation de la propagande a cherché à remplir ce but aussi beau qu'il seroit salutaire. Elle l'a fait au commencement, mais les évènemens des derniers temps ont mis à la continuation de ses desseins un obstacle qu'elle n'a pu surmonter.

Stockholm, le 9. Novembre 1812.

N.º XI.

A.

Copy of a Letter from Mr. Cockburn, the British Resident at Hamburgh, to Lord Viscount Castlereagh.

Hamburgh, Feb. 22, 1816.

My Lord.

I Have the honour to transmit to your Lordship a letter which I have received from Sir John Cox Hippisley, requesting me, under the authority of Lord Bathurst, to forward to your lordship's office an account of the regulations existing at Hamburgh and in the neighbouring states, relative to the nomination of prelates of the Roman catholic communion, and of the countroul which is exercised by the governments over the publication of papal rescripts.

In obedience to Lord Bathurst's direction, I have the honour to inform your lordship, that the governments of Hamburgh and of the neighbouring states, exercice the fullest controul over all publications under ecclesiastical authority, and that the laws expressly prohibit all such publications without the previous sanction of the government. Since the reformation of Luther, no papal edict has been published at Hamburgh; dispensations and rules

for ecclesiastical discipline are exhibited on the interior doors of the Roman catholic chapel; papal briefs are also sent to the bishops, but are not published by them.

When the order of the Jesuits existed in Germany, all papal edicts were sent to the provincials of that order in the several parts of Germany. The provincial for the North resided at Buhren in Westphalia, and the appointments to the seminaries were in his nomination. On the suppression of this order, their missions in the north of Germany were replaced by an apostolic vicar, at present, the prince of Fürstenberg, bishop of Hildesheim.

With regard to the nomination of prelates of the Roman catholic communion, I should observe, that there are no dignitaries of that religion at Hamburgh; the priests are nominated by the bishop of Hildesheim, but such nominations are expressly subject to the confirmation of the sneate. In the act of toleration, now in force, it is expressly stated, « that te nomination of Roman catholic priests must be made known to the senate, and be subjected to their confirmation, which however, without great cause, they will never refuse. »

I have the honour to inclose a translation of the act of toleration alluded to, which has been sent me by the syndic for foreign affairs.

With the highest respect, I have the honour to by etc. etc.

(Signed) Alex. Cockburn.

B.

Translation of the act of toleration of the Roman Catholic Religion in the City of Hamburgh.

Act of Toleration of the Senate of Hamburgh (Without dated. *)

We, the Burgomasters and Senate of the free imperial city of Hamburgh, do hereby make publicly known, That

*) Correctly printed from the original, delivered to Mr. Cockburn, by the Syndic of Hamburgh.

We, with the consent of the hereditary Burgers, and in the full conviction that the toleration of religion, as far as it is suitable with the nature of every state, is as well consistent with the spirit of true christianity, as it is useful to the welfare of the commonwealth, have concluded, that all those who profess the Roman Catholic or the Evangelic Reformed Religion, shall enjoy the free and uninterrupted exercice thereof, under the following conditions, viz.

1. The right of public exercise of religion, as also the rights of the dominant church remain solely reserveded to those who profess the evangelic Lutheran religion; also especially in civilibus, and namely for the faculty of places of honour in this place, burgers, collegiis, officiis, services of the town, and what else may be in this way; to which end, all former recesses which concern this point, and especially the one of 1603, are herewith confirmed anew.

2. On the otherhand, all Roman catholics and evangelic reformed, who are here at present, or which may still come this way, shall enjoy in future under our protection, within the walls of the city, a free private exercise of their religion, and shall uninterruptedly perform the divine service, through a clergyman of their religion, and have the sacrament administered according to their usances.

3. To which end we herewith accord to them, that they may at their expence build within the walls of the city particular oratories, or arrange already standing buildings to the use of their divine service, on giving us previous notice to have our constitutional approbation thereto; but such buildings dare neither have steeples, bells, nor other outward appearing signs of a public church.

4. That it also may come to their knowledge where they have to apply to in matters of the church; in the first instance, we have ordered a deputation consisting of two men amidst of us, and two members of the Collegii of the Sixty, at which they must notice all choices of their priests, candidates, etc. and before which, all in each

congregation arising accidents and discords, which are not of a nature to be adjusted be the juridic and policy authorities, must be stated in the first instance, and decided by, according to each party's religious doctrines and usances; where also the yearly accounts of each congregation must be presented by their intendant, in the presence of some deputies. Him that is not pleased with the decision of this deputation, has the only way open to him for a decision non-juridical but constitutional, in the usual manner, without that a provocation to the court of justice or other expedient of right can take piace.

5. To each of the two before-mentioned worships, the choice of their priests, as also the appointment of their necessary candidates, schoolmasters, organists, and other persons requisite for the keeping of their divine service, is entirely left to themselves; but on the other hand, those that are chosen must be designed to the deputation of church matters for foreign religious relations, and through the same we must be applied to for the confirmation and vocation of the priests, which we will without great cause never refuse. But with respect to the Roman catholics, all clergyman, and so named *clerici regulares*, are now already totally excluded.

6. The chosen ecclesiastics must have the reputation of a virtuous life and peaceable temper; and if it should be required, they must even before their confirmation, be able to show such testimonies of persons meriting confidence; they must forbear all controversies and poignancies, especially against the evangelie Lutheran religion and their professors, in sermons or writings, and to abstain from all zeal of conversion, to keep quiet and peaceable, to have the proper regard for our reverend *ministerium*, never to affect any where any ministerial rights, and when they are out of their oratories to wear civil clothes; they may, in case it should happen, appear in black with a eloak.

7. All before-mentioned persons, priests, canditates, schoolmasters, etc. are according to our in our territory belonging, *jurisdictionis ecclasiasticaé*, and the *juris dioecesani*, solely subjected to our jurisdiction. They must become bound to the town, they must pay without refusal the same taxes which are borne by the members of our reverend *ministerium* and servants of the town churches; those among them who carry on a burger's trade, have to contribute like other burgers of the town. All taxes laid on the *immobilis*, and on the oratories of the foreign religion relations, for the present and in future, must also be paid without refusal.

8. It remains at the option of each religious party to solemnize his holidays of his church silently in his oratory, and shall not be therein interrupted by anybody. Processions and obsequies ofany kind whatsoever beyond the walls of the oratories, as also the public carriage of *hosties* to the sick, and in general all marks of a publik exercice of religion, which are solemnities that after all do not form the essential part of divine service, are not allöwed.

9. The present existing ordinary, or in future extraordinary appointed fast or thanksgiving days, must also be solemnized by the foreign religion relations; the usual prayer for the senate, the burgery, and for all the town at the meetings for divine service, is to be formed after the model of our common prayer. The ordinances and notifications, which are to be published in the town churches, and which not concern the conscience or the religion must upon our request also be published in their oratories from their pulpits, in order to be brought to their knowledge, and to be attended to.

10. The usual ordinary collections at their meetings for divine service remains totally, and which is no more than proper, to the edelst and intendants of each congregation, at their pleasing distribution amongst their poor. But extraordinary collections for particular purposes, which

are ordered to be held in the town churches, must also be held in their oratories, and the collected monies must be faithfully delivered to the authority.

11. All marriage proclamations, without exception, must take place in the town churches in the bride's parish, or when one party to be married is in a foreign country, it must take place in the parish of the other party present. In the meantime, it remains at the option of the catholics as well as the reformed, likewise to proclaim themselves in their oratories. The marriage and consecration by a priests, when one party of the betrothed is of the Lutheran religion, must be done by a Lutheran priests of the church wherein the proclamation is made; but if both parties are of another religion, then they may be married by their clergyman. But in all cases the usual permission notes must be called for at the wedde [1]) on paying the usual fees.

12. With respect to the acts of baptism, it is entirely left to the choice of the parents to let their children be baptized by a Lutheran priests of the parish wherein they dwell, or to take the clergyman of their religion; and they shall be at all events at liberty, for the stronger proof of future legitimations which might afterwards be required, to have their children, whether baptized by a catholic or reformed clergyman, registered in the church book of the parish wherein they live, in the same manner as is stipulated amongst other matters in the new decree of 1782, with regard to the construction of the church book.

13. What regards the fee of one daller current, payable *jura stolae*, besides the usual proclamation fee, it is stipulated, that for the act of copulation or baptism, whether executed by the evangelic Lutheran parsons, or

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[1]) A *Collegium* composed of four Senatores, and which take care of the public morality, and of the tranquillity of the commonwealth. Remark of the translator.

by the clergyman of the foreign religion relations, a specie dollar isto be paid for every copulation act, and for every act of baptism, one mark current to the evangelic Lutheran parsons, and if dene by the foreign religion clergyman, the payment must be made before the act is executed; and in the manner that for marriage, the money is to be sent to the parson of the parish; and for that of baptisms, to the deacons for their further distribution. — (Wealthy persons will, as is reasonable and usual, not refuse to send somewhat more.) — To this effect, the edelst and intendant of every oratory are obliged to deliver to the deputation in matters of the church for foreign religion relations, quarterly, an accurate list of the baptized and marriages.

14. Every congregation has the full liberty to ehoose out of the midst, intendants and eldest for the inspection of the oratory, and also for the keeping and distribution of the collected alms and ordinary collection monier; and further, for the superintendence of their common property, capitals, and what further belongs thereto, and to appoint others in the stead of those resigned; of which choice they have to give notice of to the deputation in matters of the church for foreign religion relations, and shall these persons in their *officiis* be by us protected in every manner. But they dare not assume any other authority, and especially none which relates to the rights of our ecclesiastical jurisdiction, which is solely reserved to us.

15. As we, for the rest, at the sametime doherewith cancel and annul totally all former ordinances, usances, and connections which may in some way stand in opposition of this concession, we on other hand expect that all the foreign religion relations for the present, as well as for the future, content themselves with the therein-contained privileges, that they will not assume any further rights as which are here spontaneously accorded to them; that they will not undertake to encroach on the rights of the evan-

gelical Lutheran church, to which the public exercise of religion is solely reserved, nor even less seek to intermeddle in the town governments and burgerly *officia*, but in general to behave like quiet and peaceable burghers and inhabitants. In arising of disobedience we should, though reluctantly, see us in the necessity not only to sharpen the punishment for those that acted against our expectation, but also to revoke and cancel this our concession, according to circumstances.

Given in our Assembly of the Senate etc. etc.

N.º XII.

Official Papers relating to the Roman Catholic Religion in Canada. Ordered, by the House of Commons, to be printed, an the 25th of May 1813.

§. 1.

Extract of a *Letter* from the Earl of Egremont to Governor Murray; dated Whitehall, 13th August 1763.

Though the king has, in the 4th article of the definitive treaty, agreed to grant the « liberty of the catholic religion to the inhabitants of Canada; » and though his majesty is far from entertaining the most distant thoughts of restraining « his new Roman catholic subjects from professing the worship of thair religion according to the rites of the Romish church; » yet the condition expressed in the same article must always be remembered, viz: « as far as the laws of Great Britain permit; » which laws prohibit absolutely all Popish hierarchy in any of the dominions belonging to the crown of Great Britain, and can only admit of a toleration of the exercise of that religion. This matter was clearly understood in the negociation of the definitive treaty. The French ministers proposed to insert

the words *comme ci-devant*, in order that the Romish religion should continue to be exercised in the same manner as under their government; and they did not give up the point till they were planly told that it would be deceiving them to admit those words, for the king had not the power to tolerate that religion in any other manner than « as far as the laws of Great Britain permit. » These laws must be your guide in any disputes that may arise on this subject; but at the same time that I point out to you the necessity of adhering to them, and of attending with the utmost vigilance to the behaviour of the priests, the king relies on your acting with all proper caution and prudence, in regard to a matter of so delicate a nature as this of religion; and that you will, as far as you can consistently with your duty in the execution of the laws and with the safety of the country, avoid every thing that can give the least unnecessary alarm or disgust to his majesty's new subjects.

§. 2.

Extract of a Letter from Lord Shelburne to Lieutenant Governor Carlton; dated Whitehall, 14 Nov. 1767.

It has been represented to His Majesty that the jesuits of Canada make large remittances to Italy, and that they imperceptibly diminish their effects for that purpose: you will therefore enquire into the truth of this report, and keep a watchful eye over them for the future. If the accounts we have received of their affairs be just, their annual rent amounts to near 4,000 l. and their effects and moveables are consequently estimated at more than 70,000 l. This account may be exaggerated; nevertheless, it is sufficient to prove that too much care cannot be taken that they do not embezzle an estate of which they enjoy only the lise-rent, and which must become, on their demise, a very considerable resource to the province, in case His Majesty should be pleased to cede it for that purpose.

As Pere Roucaud asserts the above state of the jesuits affairs to be just, nay, to be moderately estimated, you may find him useful in investigating the truth of it. As this man is in the utmost want, and complains that he has received no allowance from the jesuits since his being sent over here by General Murray, it is His Majestys commands that you require these fathers to allow him a reasonable annuity from their funds, and pay him up the arrears; and you will afterwards judge wheter it is fit that he should be retained in the province, or have leave to retire. His character is very dubious here; some representing him as a werthless, and others as an honest man. He is no doubt better known in the province of Quebec than here, and therefore you will judge what reception or degree of credits he merits.' However, as he has abilities, has been employed both by General Murray and Lord Halifax, and has been found useful, he ought to receive some reward, and not be allowed to perish from indigence.

§. 3.

Extract of a Letter from Lieutenant Governor Cramahe to the Earl of Dartmouth; dated Quebec 22d June 1773.

It has ever been my opinion, *J own, that the only sure and effectual method of gaining the affections of His Majesty's Canadian subjects to His royal person and government, was, to grant them all possible freedam and indulgence in the exercise of their religion, to which they are exceedingly attached; and that any restraint laid upon them in regard to this, would only retard, instead of advancing a change of their ideas respecting, religious matters.* By degrees the old priests drop off, and a few years will furnish the province with a clergy entirely Canadian. This could not be effected without some person here exercising episcopal functions; and the allowance of a Coadjutor will prevent the bishop being obliged to cross the seas for consecration, and holding personal communication with those who may not

possess the most friendly dispositions for the British interests.

§. 4.

Extracts from *Papers* which were presented to The House, by Mr. Chancellor of the Exchequer, on the 25th day of February 1791.

Ordered by the House of Commons, to be printed 17th of May 1813

***1. Sixth article of the Capitulation of Quebec,* dated 18th September 1763.**

6th. That the exercise of the catholic, apostolic and Roman religion, shall be preserved, and that safegards shall be granted to the houses of the clergy, and to the monasteries, particularly to the bishop of Quebec, who, animated with zeal for religion, and clarity for the people of his diocese, defines to reside constantly in it, to exercise freely and with that decency which his character and the sacred mysteries of the catholic, apostolic and Roman religion require, his episcopal authority in the town of Quebec, whenever he shall think it proper, until the possession of Canada shall have been decided by a treaty between their Most Christian and Britannic Majesties. — The free exercise of the Roman religion, safegards granted to all religious persons, as well as to the bishop, who shall be at liberty to come and exercise freely and with decency the functions of his office whenever he sholl think proper, until the possession of Canada shall have been decided between thein Britannic and Most Christian Majesties.

§. 5.

Extract from the 4th Article of the Definitive Treaty, concluded at Paris the 10th of February 1763.

His Britannic Majesty on his side, agrees to grant the liberty of the catholic religion to the inhabitants of Canada. He will consequently give the most precise and

most effectual orders, that his new Roman catholic subjects may profess the worship of their religion, according to the rites of the Romish church, as far as the laws of Great Britain permit.

The 29th, 30th, 31th, and 32d Paragraphs of His Majesty's Instructions for James Murray, Esq. Governor of the Province of Quebec, dated 7th December 1763.

29th. You are as soon as possible to summon the inhabitants to meet together, at such time or times, place or places, as you shall find most convenient, in order to take the oath of allegiance, and make and subscribe the declaration of abjuration mentioned in the aforesaid Act, passed in the first year of the reign of king George the First, « for the further Security of His Majesty's Person « and Government, and the Succession of the Crown in « the Heirs of the late Princess Sophia, being Protestants, « and for extinguishing the hopes of the pretended Prince « of Wales, and his open and secret Abettors; » which oath shall be administered to them by such person or persons as you shall commissionate for that purpose: and in case any of the said French inhabitants shall refuse to take the said oath, und make and subscribe the declaration and abjuration as aforesaid, you are to cause them forthwith to depart out of our said government.

30th. And it is Our farther will and pleasure, that all such inhabitants professing the religion of the Romish church, do at all such meetings, or at such other time or times as you shall think proper, and in the manner you shall think least alarming and inconvenient to the said inhabitants, deliver in upon oath an exact account of all arms and ammunition of every sort in their actual possession, and so from time to time of what they shall receive into their possession as aforesaid.

31st. You are as soon as possible to transmit to Us by Our commissioners for trade and plantations, an exact and particular account of the nature and constitution of

the several religious communities of the Romish church, their rights, claims, privileges and property, and also the number, situation, and revenues of the several churches heretofore established in Our said province, together with the number of priests or curates officiating in such churches.

32d. You are not to admit of any ecclesiastical jurisdiction of the See of Rome, or any other foreign ecclesiastical jurisdiction whatsoever, in the province under your government.

The 3d, 4th, 20st, 21st, and part of the 56th Paragraphs of the Instructions to Guv Carleton, Esq. Capitain General and Governor in Chief in and over the Province of Quebec; dated 3d January 1775.

3d. And you are, with all due and usual solemnity, to cause our said Commission to be read and published, at the said meeting of our Council, which being done, you shall then take and also administer to each of the members of our said Council (not being a Canadian professing the religion of the church of Rome) the oaths mentioned in an Act passed in the first year of the reign of his Majesty King George the First, intituled, « An Act for the further security of his Majesty's Person and government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguing the hopen of the pretended Prince of Wales, and his open and secret Abettors, » as altered and explained by an Act passed in the sixth year of our reign, intituled, « An Act for altering the oath of the abjuration, and the assurance, and for amending so much of an Act of the seventh year of her late Majesty Queen Anne, intituled: « An Act for the improvement of the union of the two kingdoms, as after the time therein limited requires the delivery of certain lists and copies therein mentioned, to persons indicted of high treason, or misprision of treason; » as also make and subscribe, and cause them to

make and subscribe, the Declaration mentioned in an Act of Parliament made in the twenty-fifth year of the reign of king Charles the Second, intituled, « An Act for preventing dangers which may happen from Popish Recusants;» and you, and every one of them, are likewise to take an oath for the due execution of your and their places and trusts, with regard to your and their equal and impartial administration of justice; and you are also to take the oath required by an Act passed in the seventh and eighth years of the reign of king William the Third, to be taken by governors of Plantations, to do their utmost that the laws relating to the Plantations be observed.

4th. And whereas by an Act passed in the fourteenth year of our reign, intituled: « An Act for making more effectual provision for the government of the Province of Quebec, in North America, » it is enacted and provided, That ne person professing the religion of the Church of Rome, and residing in the said Province, shall be obliged to take the oath of supremacy required by an Act passed in the first year of the reign of Queen Elizabeth, or any other oaths substituted by any other Act in the place thereof; but that every such person, who by the said statute is required to take the oaths therein mentioned, shall be obliged, and is thereby required, under certain penalties, to take and subscribe an oath, in the form and words therein prescribed and set down: It is therefore our will and pleasure, that you do administer to each and every member of our said council, being a Canadian, and professing the religion of the Church of Rome, and cause each of them severally to take and subscribed the oath mentioned in the said Act passed in the fourteenth year of our reign, intituled, « An Act for making more effectual provision for the government of the Province of Quebec in North America; » and also cause them severally to take an oath for the due execution of their places and trusts, and for their equal and impartial administration of justice.

20th. The establishment of proper regulations in matters of ecclesiastical concern is an object of very great importance, and it will be your indispensable duty to lose no time in making such arrangements in regard thereto, as may give full satisfaction to our new subjects in every point in which they have a right to any indulgence on that head; always remembering, that it is a toleration of the free exercise of the religion of the Church of Rome only to which they are entitled, but not to the powers and privileges of it as an established church, for that is a preference which belongs only to the Protestant Church of England.

21st. Upon these principles, therefore, and to the end that our just supremacy in all matters, ecclesiastical as well as civil, may have its due scope and influence, it is our will and pleasure.

First. That all appeals to, or correspondence with, any foreign ecclesiastical jurisdiction, of what nature or kind soever, be absolutely forbidden under very severe penalties.

Secondly. That no episcopal or vicarial powers be exercised within our said province, by any person professing the religion of the Church of Rome, but such only as are essentially and indispensably necessary to the free exercise of the Romish religion; and in those cases not without a licence or permission from you under the seal our said province, for aud during our will and pleasure, and under such other limitations and restrictions as may correspond with the spirit and provision of the Act of Parliament « for making more effectual provision for the government of the province of Quebec; » and no person whatever is to have holy orders conferred upon him, or to have the cure of souls, without a licence for that purpose first had and obtained from you.

Thirdly. That no person professing the religion of the Church of Rome be allowed to fill any ecclesiastical benefice, or to have or enjoy any of the rights or profits

belonging thereto, that is not a Canadian by birth (such only excepted as are now in possession of any such benefice) and that is not appointed thereto by us, or by or under our authority, and that all right or claim of right in any other person whatever to nominate present or appoint to any vacant benefice, other than such as may lay claim to the patronage of benefices as a civil right, be absolutely abolished. No person to hold more than one benefice, or at least not more than can reasonable be served by one and the same incumbent.

Fourthly. That no person whatever, professing the religion of the Church of Rome, be appointed incumbent of any parish, in which the majority of the inhabitants shall solicit the appointment of a Protestant minister; in such case, the incumbent shall be a Protestant, and entitled to all tithes payable within such parish. But nevertheless the Roman Catholics may have the use of the church, for the free exercise of their religion, at such time as may not interfere with the religious worship of the Protestants: And in like manner, the Protestant inhabitants in every parish, where the majority of parishioners are Roman catholics, shall, notwith standing, have the use of the church for the exercise of their religion, at such times as may not interfere with the religious worship of the Roman catholics.

Fifthly. That no incumbent, professing the religion of the Church of Rome, appointed to any parish, shall be entitled to receive any tithes for lands or possessions occupied by a Protestant, but such tithes shall be received by such persons as you shall appoint, and shall be reserved in the hands of our Receiver General as aforesaid, for the support of a Protestant clergy in our said province, to be actually resident within the same, and not otherwise, according to such directions as you shall receive from us in that behalf. And in like manner, all growing rents and profits of a vacant benefice shall, during such vacancy, be reserved for and applied to the like uses.

Sixthly. That all persons, professing the religion of the Church of Rome, which are already possessed of, or may hereafter be appointed to any ecclesiastical benefice, or who may be licenced to exercise any power or authority in respect thereto, to take and subscribe before you in council, or before such person as you shall appoint to administer the same, the oath required to be taken and subscribed by the aforesaid Act of Parliament, passed in the fourteenth year of our reign, intituled, « An Act for making more effectual provision for the government of the province of Quebec, in North America. »

Seventhly. That all incumbents of parishes shall hold their respective benefices during good behaviour, subject however, in cases of any conviction for criminal offences, or upon due proof of seditious attempts to disturb the peace and tranquillity of our government, to be deprived or suspended by you, with the advice and consent of a majority of our said council.

Eighthly. That such ecclesiastics as may think fit to enter into the holy state of matrimony, shall be released from all penalties, to which they may have been subjected in such cases, by any authority of the See of Rome.

Ninthly. That freedom of burial of the dead in churches and church-yards be allowed indiscriminately to every Christian persuasion.

Tenthly. That the Royal Family be prayed for in all churches and places of holy worship, in such manner and form as are used in this kingdom, and that our arms and insignia be put up, notonly in all such churches and places of holy worship, but also in all courts of justice; and that the arms of France be taken down in every such church or court where they may at present remain.

Eleventhly. That the society of Romish priests, called the Seminaries of Quebec and Montreal, shall continue to possess and occupy their houses of residence, and all other houses and lands, to which they were lawfully entitled on

the 13th of September 1759; and it shall be lawful for those societies to fill up vacancies, and admit new members; according to the rules of their foundations, and to educate youth, in order to qualify them for the service of parochial cures, as they shall become vacant: It is nevertheless our will and pleasure, that not only these seminaries, but all other religious communities, so long as the same shall continue, be subject to visitation by you our governor, or such other person or persons as you shall appoint for that purpose; and also subject to such rules and regulations as you shall, with the adwice and consent of our council, think fit to establish and appoint.

Twelfthly. It is our will and pleasure, that all other religious Seminaries and Communities *(that of the Jesuits only excepted)* do for the present, and until we can be more fully informed of the true state of them, and how far they are or are not essential to the free exercise of the religion of the Church of Rome, as allowed within our said province, remain upon their present establishment; but you are not to allow the admission of any new members into any of the said societies or communities, the religious communities of women only excepted, without our express orders for that purpose. That the society of Jesuits be suppressed and dissolved, and no longer continued as a body corporate and politic, and all their rights, possessions and property, shall be vested in us, for such purposes as we may hereafter think fit to direct or appoint; but we think fit to declare our Royal intention to be, that the present members of the said society, as established at Quebec, shall be allowed sufficient stipends and provisions during their natural lives. That all Missionaries amongst the Indians, whether, established under the authority of, or appointed by the Jesuits, or by any other ecclesiastical authority of the Romish Church, be withdrawn by degrees, and at such times and in such manner, as shall be satisfactory to the said Indians, and consistent

with the public safety, and Protestant Missionaries appointed in their places. That all ecclesiastical persons whatsoever of the Church of Rome, be inhibited upon pain of deprivation, from influencing any person in the making a will, from inveigling Protestants to become Papists, or from tampering with them in matter of religion; and that the Romish priests be forbid to inveigh in their sermons against the religion of the Church of England, or to marry, baptize, or visit the sick, or bury any of our Protestant subjects, if a Protestant minister be upon the spot.

Part of the 56th Paragraph.

To an allowance to the person licensed to superintend the Romish church. L. 200.

The 5th Paragraph of the Memorial of His Majesty's new Subjects of Quebec; dated 31st December 1788.

It is our religion, our laws relative to our property, and our personal surety in which we are most interested; and these we enjoy in the most ample manner by the Quebec bill. We are the more averse to an house of assembly, from the fatal consequences which will result from it. Can we, as Roman catholics, hope to preserve for any length of time, the same prerogatives as protestant subjects in an house of representatives; and will there not come a time when the influence of the latter will overbalance that of our prosperity? In this case, should we and our posterity enjoy the same advantages which our present constitution secures to us? Again, have we not reason to dread lest we should soon see those taxes levied upon the estates, which are at present actually levied upon articles of commerce, which the inhabitant pays indirectly it is true, but in proportion to what he consumes? Shall we not fear that we may one day see the seeds of dissension created by the assembly of representatives, and nourished by those intestine hatreds, which

the opposite interests of the old and new subjects will naturally give birth to? We will now turn the weapons of these zealous partizans of an assembly of representatives against themselves, and make use of their own calculations, in order to demonstrate the errors of those assertions with which they support their addresses.

§. 6.

Abstract of Proceedings in Council, relative to the Grant to the late Jeffery Lord Amherst, of the Estates belonging to the Jesuits in Canada; with the dates of the several Orders made by His Majesty in Council, in that behalf; and Reports of the late Board of Trade, and of His Majesty's Law Officers for the time being.

On the 24th May 1770 His Majesty was pleased to refer to a committee, a petition from Jeffery Lord Amherst to His Majesty in council, stating, That His Majesty having been graciously pleased to signify his intention of bestowing a mark of his royal favour, in America, on the petitioner; and praying a grant of the estates belonging to the Jesuits in Canada.

This petition was referred by the committee, to the Board of Trade; who made their report thereou, dated 7th June following, but offered no decided opinion upon the petition of Lord Amherst.

On the 2d November 1770 the lords of the committee made their report to His Majesty; and submitied that His Majesty's attorney and sollicitor-general should be directed to prepare the draft of a proper instrument, to be passed under the great seal, for granting to Lord Amherst the estates belonging to the Jesuits in Canada; reserving to His Majesty, for public uses, the colleges and chapels, with their appartenances, which belonget to the society in Quebec, Montreal, and Trois Rivieres; the grantee engaging to make satisfaction to such of the then possessors as were in possession at the time of the conquest.

The report was approved, and an order made containing directions as above, to His Majesty's attorney and solicitor-general; who, by a report, dated 14th December 1770, submitted that they could not proceed in preparing the instrument, for want of an authentic account of the nature and description of the estates intended to be granted by His Majesty.

On the 20th December 1770 another petition was presented by Lord Amherst, praying, That His Majesty would renew his order to the attorney and solicitor-general, for preparing, the draft of grant, and containing a particular of the estates, etc. with an affidavid annexed of general Murray (the then governor of Quebec) to the same effect; which petition was referred to the law officers by His Majesty's order in council, bearing date the 21st December 1770; and in case the same contained an authentic account of the nature and description of the said estates, they were to prepare the draft of the grant, etc. But it appears by the report of His Majesty's law officers, in return to the said order, that the said affidavit of general Murray did not, in their opinion, set forth an authentic account of the nature and description of the estates intended to be granted.

On the 8th March 1771 a further petition was presented by Lord Amherst, stating, That he had lately received from Canada, a particular account and description of the estates belonging to the Jesuits in that province, certified by the clerk of enrolments to be conformable to the registers of the intendant's office, and those of the superior council of Quebec, etc. etc.; which petition, and papers annexed thereto, were referred to His Majesty's law officers, to consider the same, with such further accounts and proofs as should be laid before them, and to prepare the draft of an instrument for making a grant to the petitioner, agreeable to His Majesty's former order.

A further petition was presented by Lord Amherst, praying, That His Majesty would renew his former order to the attorney and solicitor-general, for preparing the draft of grant, and would empower them to receive and admit such further evidence as should be laid before them, fore ascertaining the description, boundaries, and tenure of the said lands; and was referred to the law officers accordingly.

On the 6th July 1786, His Majesty's then attorney and solicitor-general made their repart to His Majesty, in return to the preceding order, and to the former orders of the same tenor; by which it appears, that Lord Amherst hat forbone to lay before them some document or documents, in his possession, for the better ascertaining the nature, etc. of the lands, by reason of the troubles which, in 1779, and for some years afterwards, subsisted in North America; and submitting, that the additional evidence produced, was still insufficient to ascertain various particulars necessary to be known; viz:

The present titles, by which the lands were possessed:

The persons by whom possessed:

Their present value, and the nature of the tenure by which they were holden:

The exact local situation; their extend and population; and whether any and what claims are made by the heirs of the donors of such part of the lands as were given to the religious order by private persons.

And the report concludes by submitting, that the said several particulars, and all other material circumstances attending the lands in question, may be best ascertained by an inquiry instituted in the province by commissioners to be appointed by His Majesty's governor, or by such proceedings in the nature of an inquisition, as he should find most consonant to the laws and usages of the province, to institute for that purpose; and that until these particulars should be fully ascertained, they were still

unable to prepare such grant to the petitioner as would be valid in law.

This report from the law officers was referred by His Majesty to the consideration of the lords of the committee of privy council for trade and foreign plantations; who, by their report to His Majesty, dated the 10th of the said month, submitted their opinion: That, in consideration of the difficulties and delay that had hitherto attended the carrying into effect His Majesty's gracious intention in favour of the petitioner, His Majesty might authorize and direct the governor of the province of Quebec, to cause the several particulars stated by the attorney and solicitor-general in their above report, and all other circumstances attending the land in question, to be ascertained by commissioners to be appointed, etc. etc., and that upon return thereof, the governor should pass a grant, under the seal of the province, to the petitioner, his heirs and assigs, of so much of the estates belonging to the Jesuits, in the said province, as might be legally granted, under such tenures and subject to all such payments and other rights of segniory, as might by law belong to His Majesty; and under the reservations and conditions mentioned in His Majesty's former order of the 9th November 1770, and excepting thereout such parts or parcels thereof as His Majesty's governor should judge necessary to be reserved for public uses, and such grant to be submitted to His Majesty's further consideration.

On the 18th August 1786, the foregoing report of the lords of the committee for trade was approved by His Majesty, and an order issued accordingly to the governor of the province of Quebec.

In pursuance of this order, a return was made by lord Dorchester, the then governor of Canada, of all the proceedings which had taken place in that province, with respect to the survey of the lands in question; and his lordship, in his letter accompanying the same, assigned

his reasons why he had not prepared a grant of the said lands, in conformity thereto.

At a later period a return was made by governor Milne, of the actual value and revenue of those estates, as made out by the commissioners for the management of the same. Governor Milne, in his letter transmitting the same, which bears date 23d February 1801, observes, that the information most to be depended on would certainly have been obtained by means of a papier terrien; but his objections to that arose from finding it would not only have been attended with a considerable expense, but that it would have taken up much more time.

The governor believes however, that the valuation (as now made) cannot be materially wrong, and states the annual revenue in 1801, according to the first report, dated the 13th January, as amounting to 1,245 l. 5s. 4d. exclusive of the property situated within the cities of Quebec and Montreal.

The letter refers to the second report, dated the 6th of February 1801, and mentions that it is computed that the concessions made since that time, have increased the annual revenue to 1,358 l. 13s. 4d.

In the month of June 1791, the late Lord Amherst presented another petition, renewing his prayer, That the governor or lieutenant for the time being, might be ordered to pass without further delay the grant in question, of all the said estates, which should appear, from the reports of the commissioners appointed in pursuance of His Majesty's order of the 18th August 1786, and by the report of His Majesty's law officers in the province, His Majesty might legally give and grant.

This petition was also referred to the committee; but it does not appear to have been taken up during the life of the late Lord Amherst.

On the 9th of May 1798, the present Lord Amherst presented his petition to His Majesty in council, stating

all the proceedings which had taken place, and particularly the order of the 18th August 1786, which directed the governor to appoint commissioners, and institute an inquiry in the province, for ascertaining the nature of the lands etc. and that the proceedings, under the said commission, had been returned, together with a digest on analysis thereof, and the report of the law officers in Canada; and praying that the said law officers in Canada might be to prepare a grant of all such parts or portions of the estates late belonging to the Society o Jesuits, as are particularly ascertained by the said report; or that a grant might be prepared of such parts of the said estates, and the profits thereof, as His Majesty should think proper and best calculated to effectuate His Majesty's bounty to the late Jeffery Lord Amherst.

This petition was referred to a committee; who recommended to His Majesty to make such grant accordingly, under the special reservation, provision, and declaration, that when the clear yearly profits of the said estates shall exceed 2,400 l. sterling, Lord Amherst should account to His Majesty for the surplus profits, after being allowed such sums as he should have expended in settling, cultivating, and improving the said estates, and all other expenses which Lord Amherst should in any manner have been put to, in and about the said estates, which had not hitherto appeared to have yielded any revenue or advantage to His Majesty; and also to be allowed the charges attending the several orders and commissions in Canada, and other proceedings, to ascertain the nature and description of the said estates, and also such further expences as might be incurred in passing and carrying the grant of the said lands into effect; and that His Majesty's attorney and solicitor should prepare a draft of such grant to be passed under the great of the province, under the beforementioned special reservation, provision and declaration, respecting the surplus profits, and con-

taining the reservations specified in the former orders; and further reserving to His Majesty such other parts and parcels of the lands as His Majesty's governors had actually applied to the erection of hospitals, barracks, and other public uses; and on the 23d January 1799 this report was approved, and order issued to the attorney and solicitor-general accordingly.

In return to the above-mentioned order, His Majesty's law officers made their report, with tho draft of the grant annexed, but submitted, that the lands to be conveyed by the said grant, lying within the province of Lower Canada, with the particular circumstances of which, and more especially with the tenures, and proper description thereof, not being perfectly informed, they could not consider themselves as being perfectly competent to frame an instrument which might not be liable to objection, and therefore submitted, that the same should be fully considered by the law officers in Canada; and thereupon the lords of the committee, to whom the said report and draft of instrument had been referred, recommended that His Majesty should approve of the draft; but that, previous to the same passing the seal of the province, the governor should be directed to consult the law officers of the province with respect to such provisions and alterations, as, upon due consideration of the nature of the tenures, and proper description of the lands, might appear to them advisable to be added to or inserted in the said grant.

It is presumed, that a return was made to this order by the governor, in the spring of 1801; for it appears by the council book, that, on the 14th April 1801, a letter was written to the attorney-general, stating that several proceedings had taken place in the province, upon the reference made to His Majesty's law officers *there*, of the draft of the grant prepared here and transmitted as above-mentioned; and that the law officers in Canada hat,

by their report to the governor, bearing date the 15th November 1799, stated certain objections to the validity of the said instrument, as then constructed, according to the existing laws of Canada; and the letter went on to direct His Majesty's attorney and solicitor-general *here*, to take into consideration the draft of the original instrument, and also the said report of the law officers in Canada, and report their opinion, —

First. Whether the said alterations and amendments were proper to be adopted?

Secondly. In case they should be of opinion, that such were proper, whether it would be necessary that a new draft of instrument should be prepared and submitted to His Majesty for approbation; or whether it would be sufficient, in case His Majesty's attorney and solicitor concurred in opinion with the law officers in Canada, to direct the governor to cause the said alterations and amendments to be inserted in the instrument already prepared?

In answer to this letter, His Majesty's law officers mad a further report to the lords of the committee, stating many objections which occured to them in respect to the provision under which Lord Amherst was to hold the lands, and be made accountable for the surplus profits of the estates beyond 2,400 l. per annum.

That it would render his lordship a public accountant, and expose him and his undertenants to endless difficulties and perplexities; and that it would operate as a bar to the full improvement of the estates, and consequently to the revenue to be derived from the same to His Majesty; inasmuch as the agents employed by Lord Amherst could hardly be expected to look further than the perception of the proportion of rent granted to Lord Amherst for his own use.

N.° XIII.

Official Papers relating to the Roman Catholic Religion in Malta.

Ordered, by The House of Commons, to be printed, May 24th 1813.

§. 1.

Copy of a Letter from Sir Alexander John Ball to the Right honourable William Windham, dated

Malta, 7th May 1807.

Sir,

I Have the honour to acquaint you, that the see of Malta became vacant on the 30th ultimo, by the death of Monsignor Labini, the late bishop of this diocese, and titular archbishop of Rhodes.

Whilst J wait the commands of His Majesty relative to the appointment of a successor to that important dignity, I think it my duty to communicate such information as may be required, regarding the former mode of election, and other particulars.

At the period of the grant of these islands to the Order of St. John of Jerusalem by the emperor Charles the Fifth, that sovereign established, that whenever the see might become vacant, three ecclesiastics of their society were to be named by the gran master and council of the order, one of whom should be elected to the bishoprick by his (the emperor's) successor in the crown of the Two Sicilies; and the person so elected became *ex officio* a dignitary, or grand cross of the order.

The revenues of the see are very considerable, amounting to nearly three thousand eight hundred pounds currency at Malta, besides the two palaces attached to the dignity, forage for horses, and some other inferior advantages.

Of the above revenues, upwards of two thousand pounds arise from land and other property, situated in Malta; and the remainder is derived from the rents of certain lands in the Island of Sicily; which, it may be observed, are fully secured from alienation, by the circumstance of a Benedictine convent at Calania holding property of equal value in this island.

I am fully aware, Sir, that the bishop of Malta ought to enjoy such a revenue as will enable him to support his dignity, as head of the church; but I beg, with great deference, to observe, that in an island of limited a circumference, and where the estates of the richest native inhabitants are comparatively so very inferior (for there is scarcely one instance of an individual possessing a fourth part of the revenue of the bishop), so large an income in the hands of one ecclesiastic may give him an undue influence, especially when it is considered that the dignity itself bestows very considerable patronage, and that all persons connected with the church are placed beyond the reach of the civil power, and are amenable only to the ecclesiastical court. I should, therefore, with deference submit, wheter it might not be advisable that the annual revenue of the bishop be, in future, limited to two thousand pounds; and that the overplus be applied, partly for the benefit of the seminary for educating the clergy, partly in the amelioration of the condition of the parochial priests, whose stipends are, in many instances, inadequate to their support, and the remainder to be disposed of for other pious uses.

Such an arrangement, I have reason to believe, would prove highly satisfactory to the clergy and to the peoble; and I am fully persuaded, that any candidate for the bishoprick would be amply satisfied with the salary proposed, as fully adequate to the support of his dignity.

I further beg leave, Sir, to suggest, that should the person, to be nominated bishop of Malta, be a member

of the order of St. John, it ought to be stipulated, that he shall not continue to wear the insignia of that institution, or to exercise any authority as such.

The suggestion I am particularly desirous of submitting to the approval of His Majesty, from a conviction that the inhabitants will still regard the order as existing in the island, whilst the insignia continues to be worn by the head of the church. So much, indeed, did the late bishop consider himself the representative of the order, that he continued to administer to the effects of such of the knights as have died here, since the island was ceded to Great Britain.

The proceeds of such effects remain still in deposit; and, I conceive, that the amount may, with great propriety, be applied towards the maintenance of the public hospitals, which are at present a very serious expense to government.

I have only to add, Sir, that the chapter yesterday assembled in the cathedral church, and elected one of their number (the archdeacon Xerri), to officiate as head of the church, during the avancy of the see, under the title of *Vicario Capitolare.*

I have, etc.

(Signed) Alex. Ball.

To the Right Hon. William
Windham, etc. etc. etc.

Copy of a Letter from Sir Alexander John Ball, to the Viscount Castlereagh, dated

Malta, 6th January 1808.

My Lord,

I Have the honour to transmit to your Lordship, the copy of a letter which I have received from the marquis Circello, signifying the nomination by the Pope of Monsignor Mattei, titular bishop of Paphos, to the vacant

see of Malta; and expressing the desire of his Sicilian majesty, that that prelate may be allowed to enter immediately upon the functions of the bishoprick, and the enjoyment of the revenues attached to it. In my answer to the marquis (a copy of which I enclose for your Lordship's information.) I have stated, that however much I am inclined to favour views of Monsignor Mattei, I must decline giving effect to the papal bull until His Majesty's pleasure is known.

In justice, however, to this gentleman, I think it proper to add, that of the candidates for the vacant see, none is more attached to the British government, or, in my opinion, better qualified to fill with respectability the high situation to which he aspires.

I beg, however, with great deference to suggest, that should Mons.r Mattei's nomination be sanctioned by His Majesty, he should be required to accede to the terms proposed in my letter on this subject, addressed, to your Lordship's predecessor in office; as without some restriction, the bishop of Malta, possessing a larger revenue than is necessary for the support of his dignity, might become a formidable opponent to the measures of government. In proof of this assertion it may be proper to state, that since the death of the late bishop of the diocese, I have discovered that several adherents of the order, and of the French party, were pensioned by that prelate.

I have the honour, etc.

(Signed) ALEXANDER JOHN BALL.

The Right
Hon. Viscount Castlereagh,
etc. etc. etc.

§. 2.

Copy of a Letter from the Marquis of Circello, to Sir A. Ball; dated Palermo, 28th October 1807.

Eccellenza,

Tra i Vescovi preconizzati dalla Santità di Papa Pio VII, nell' ultimo consistorio delli 18 del passato Septembre vi è stato Monsig. D. Ferdinando Mattei per vescovo di codesta chiese. Il Re, mio signore, essendo stato informato di ciò, è ben volentieri divenuto ad ordinare, che si dià il solito corso ed effetto alle Bolle Apostoliche, allo stesse spedite, e che in consequenza sia egli autorizzato alla percezione delle rendite che la mensa vescovile di Malta gode in questo regno.

Non dubitando, che questa benigna determinazione presa dalla Maestà Sua a favore di Monsignor Mattei sarà per riuscire grata a V. E. trattandosi di un sogetto da lei particolarmente raccomandato, allorchè si portò egli in questa capitale, e che ha saputo meritarsi colla sua famiglia la di lei stima, e la considerazione del governo di Sua Maesta Brittannica, mi affretto di renderne informata L' E. V. e profitto di questa occasione per esprimerle, la conferma del particolare ossequio con cui ho l'onore di dirmi,

di V. E.

Dev^mo^ Ob^mo^ Servo vero

(Signed) Il Marchese di Circello.

Palermo, 28 Ottobre 1807.

Sign. Cav. Ball,
Malta.

A Copy

(Signed) Alex^r^ Jno Ball.

§. 3.

Copy of a Letter from Sir Alexander John Ball to the Marquis di Circello, Malta, 7th January 1808.

Malta, 7th January 1808.

Sir,

I have the honour to acknowledge the receipt of your excellency's letter of the 28th October; which, however, did not reach me until the 16th of last month.

The information which it communicates of Monsignor Mattei having been nominated by his Holiness the Pope to succeed to the vacant see of Malta, isto myself, individually, highly acceptable; but as I have not yet received the commands of my Sovereign, on a subject of so much importance, your excellency will be aware that I cannot, as yet, comply with the desire of his Sicilian majesty, by giving effect to the Papal bull in favour of that prelate. I have, however, transmitted your letter to his majesty's ministers in England; and have not failed to express the favourable sentiments which I entertain of Monsignor Mattei.

I have the honour, etc.

(*Signed*) Alex. John Ball.

His Excellency
The Marquis di Circello
etc. etc. etc.

§. 4.

Extract of a Letter from Viscount Castlereagh to Sir Alexander John Ball, dated Downing Street, 1st April 1808.

« His Majesty has directed me to convey to you his royal commands, that you should take the necessary measures for causing Monsignor Mattei to be received into the vacant see of Malta. At the same time, I am to

signify to you His Majesty's approbation of the suggestions submitted by you in your dispatch of the 7th May last, wherein you state, that the annual revenue of the bishop of Malta should be reduced to an income of 2,000 l. a year, and that the remainder of the proceeds of the bishoprick, amounting to 1,800 l. a year, should be applied partly to the seminary for educating the clergy, partly for the amelioration of the condition of the parochial priests, and the remainder to other pious uses. As you have stated that an arrangement of this nature would be highly satisfactory to the clergy and the people, I have no doubt that, in your arrangement of this business, you will take care not to fail in producing the beneficial result you so fully expect; and I am to desire you will take an early occasion of transmitting to me the detail of the measures you adopt.»

§. 8.

(Copy)

Disposizioni del Governo de Sua Maestà Bca alle quali si attende l'adesione del Vescovo di Malta, prima del suo possesso.

1. Nelle chiese principali, nel luogo medesimo, ove avean per lo passato il loro trono i principi dell' isola, vi sia un trono, nel fondo del quale sian ricamate in tutta ceremonia le arme Britanniche.

2. Il governatore, ossia regio civile commissionario *pro tempore*, portandosi in chiesa, abbia una sedia ed apparato distinti nel lato destro, ed abbia tutti gli onori, che gli, convengono come rappresentante di Sua Maestà, e fuori della chiesa gli si usino tutti quei riguardi, che si usavano ai principi, ossia Gran Maestri, sotto l'antico governo.

3. I luogotenenti dello stesso governatore, o regio civile commissionario, in assenza del medesimo, abbiano nelle chiese de' loro respettivi distretti quelle distinzioni,

e quegli onorifici, che si usano attualmente ai tre luogotenenti della Vettoriosa, Senglea, e Cospiena.

4. Che dalle rendite del vescovato, il vescovo di Malta abbia alla sua disposizione l'equivalente or due mila lire sterline.

5. Che dal di più la somma di scudi quattro mila Maltesi sia distribuita in una maniera da concertarsi col vescovo istesso ai parochi di Malta e Gozo in vece del loro dritto delle primizie in isgravio delle rispettive popolazioni. E questo sarà perpetuamente un peso annesso al vescovato.

6. Di ció, che avanzerà, dopo dedotte le premesse due somme, non potrà il vescovo fare veruna disposizione, se non di concerto col governatore, o regio civile commissionario.

Aderisco agli articoli premessi, e vi presto il mio pieno consenso in tutto quello che dipende da me.

Oggi, li 12 Maggio 1808.

(Segnato) Fra Ferdinando Mattei,
Vescovo di Malta.

§. 6.

(Copy)

Eccellenza,

Deputati espressamente da questo capitolo, adempiamo con sincero piacere l'incarico datoci di esprimere all' eccellenza vostra l'universale sentimento di compiacenza e di gratitudine, che ha eccitato in chiunque l'esaltazione di Monsignor Ferdinando Mattei alla sublime dignità vescovile di questa diocesi, e di supplicare la stessa eccellenza vostra di umiliare al trono di Sua Maestà questi medesimi sentimenti dettati ad ognuno da un senso di dovere, si per l'onore e bene presente compartito alla nazione intera, con essere stato promosso ad un grado cosi eminente un Maltese, ed un individuo del capitolo medesimo, degno di occuparlo, facendo il carattere di

Monsignor Mattei concepire le più belle speranze, si ancora per il bene avvenire promessoci dall 'E. V. coll' assicuranza fattaci in nome di Sua Maestà, che Maltese sarà sempre il vescovo di quest' isola.

Preghiamo però l' E. V. permetterci di soggiungerle, non creder noi di avere compitamente eseguito la nostra commissione, senza assicurarla, che le misure adottate da V. E. nello eseguira gli ordini di Sua Maestà, ha meritato l'applauso di tutta la nazione, ed han reso doppio il valor della grazia, tendendo tutte ad assicurare aila nazione istessa, costante, e perpetua la protezione del governo di Sua Maestà per la cattolica religione, che professiamo.

Dalla Cattedrale, li 31 Maggio 1808.

Devo[mi] obb. servitori

(Sottoscritti) Giuseppe Bartomio,
Arcidiacono Lerri,
Canonico Salvatore Susano,
Fra. Giuseppe,
Canonico Lauron,
Canonico Simone Biagio.

All'
Sig[r] Cav. A. Geo. Ball.
Regio Civile Commissionario.









